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from the Auditor General of Canada
Points—Chapters 1 to 6

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2009



SPRING

Report of the
**Auditor General
of Canada**
to the House of Commons

Message from the Auditor General of Canada
Main Points—Chapters 1 to 6



[Office of the Auditor General of Canada](#)



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Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

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Auditor General of Canada
Vérificatrice générale du Canada

To the Honourable Speaker of the House of Commons:

I have the honour to transmit herewith this Spring Report of 2009 to the House of Commons, which is to be laid before the House in accordance with the provisions of subsection 7(5) of the *Auditor General Act*.

Sheila Fraser

Sheila Fraser, FCA
Auditor General of Canada

OTTAWA, 12 May 2009

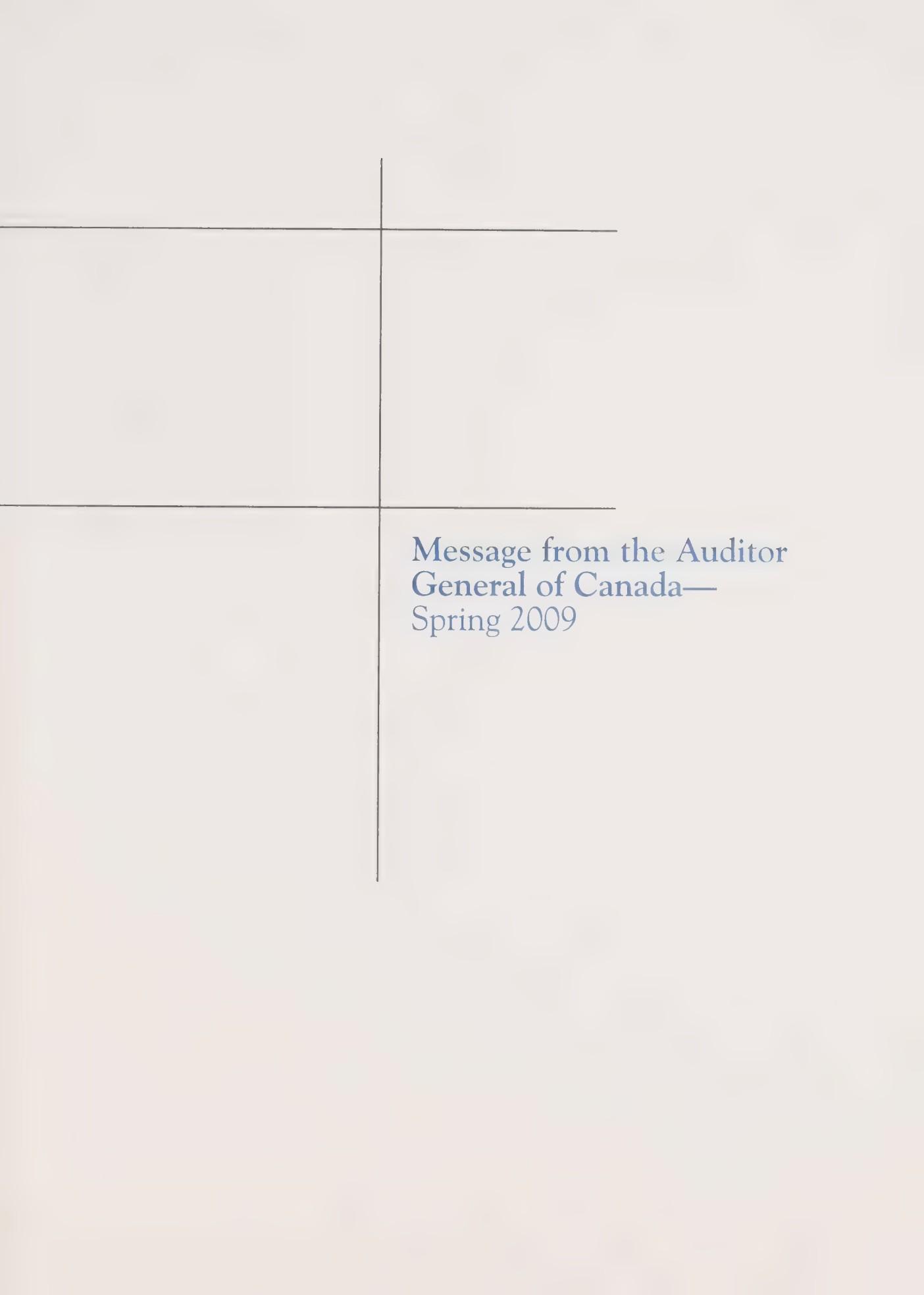
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Message from the Auditor
General of Canada—
Spring 2009

Message from the Auditor General— Spring 2009



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Sheila Fraser, FCA
Auditor General of Canada

This Report addresses several issues important to Canadians. A brief overview of the key issues in each chapter follows, but first I want to raise a matter that has implications for all of our audit work.

The government's approach to the documentation and availability of analysis is of growing concern to me. Most recently, this matter arose in our audit of gender-based analysis. We asked the central agencies to provide information that would demonstrate their review and challenge related to any gender-specific impacts of policy initiatives submitted by departments and agencies.

We were told by officials of central agencies—the Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance—that discussions had taken place concerning gender-specific impacts of proposed policy initiatives but that no record of these discussions existed, apart from what might be contained in confidential Cabinet documents that we are not entitled to see. This is not acceptable. Departments and central agencies must be able to demonstrate support for decision making by preparing and keeping relevant documents.

In its response to this audit, the government disagrees with our recommendation that central agencies document the challenge function they say is undertaken orally when reviewing spending initiatives and policy proposals going forward to Cabinet. It says this would be impractical, would not improve the challenge function, and would divert resources from the core function of providing the best and most relevant information to decision makers. In my view, however, documentation of relevant analysis is fundamental to the management process. Without it, government cannot demonstrate due diligence.

In its response, the government also claims that the final results of the challenge function are documented in advice to ministers, where appropriate. We respect the principle of Cabinet confidence. We do not need to see the advice and recommendations presented to ministers. However, the order-in-council that clarifies my access to key information was amended by the government in 2006; it clearly indicates that I may obtain the analyses performed by Treasury Board of Canada Secretariat officials from February 2006 onward. All of the initiatives included in our audit of gender-based analysis were undertaken after February 2006.

I strongly urge the government to ensure that relevant analysis is documented and maintained in information systems. Should the analysis not be available to me, I must conclude that it was not performed.

Gender-Based Analysis

Gender-based analysis is an analytical tool that can be used to assess how the impact that spending initiatives and policy proposals might have on women could differ from their impact on men. The federal government made a commitment in 1995 to implement gender-based analysis throughout its departments and agencies. Since then, a number of international organizations such as the Council of Europe, the United Nations, and the World Health Organization have emphasized that policy development in areas such as immigration, agriculture, and disease prevention need to reflect the differences in the obstacles and barriers that men and women face. Applying gender-based analysis to cardiovascular disease, for example, highlights the differences in risks, symptoms, and outcomes between women and men that need to be integrated in developing related policies and programs.

In April 2008, the House of Commons Standing Committee on the Status of Women requested that our Office examine the implementation of gender-based analysis in the federal government.

We found that despite the government's commitment to gender-based analysis, there is no government-wide policy requiring that departments and agencies perform it. Our examination of seven departments whose responsibilities can impact men and women differently shows a wide variety of practices. For example, while Indian and Northern Affairs Canada has implemented all key elements of a proper framework for gender-based analysis, Transport Canada and Veterans Affairs Canada have no framework.

We also found that very few of the departments that perform gender-based analysis can show that the analyses are used in designing public policy. In addition, their proposals to Cabinet and to the Treasury Board provided little information on how policies would specifically affect women and men. The 2007 revised Guide to Preparing Treasury Board Submissions reminds departments and agencies that they have to report such information. However, the new 2008 guide on drafting memoranda to Cabinet does not clarify how and when gender-specific impacts are to be considered and reported to Cabinet in policy proposals.

To enable the government to meet its commitment to gender-based analysis, we have recommended that Status of Women Canada, in consultation with the Treasury Board of Canada Secretariat and the Privy Council Office, clarify expectations, establish a plan for facilitating the implementation of gender-based analysis, and better communicate to departments and agencies what their responsibilities are in this area.

Intellectual Property

Intellectual property refers to legally protected rights resulting from intellectual activity in the industrial, scientific, literary, and artistic fields. Whether used for policy development, decision making, advancement of knowledge, or national security, intellectual property is a valuable asset that can help the federal government better serve the interests of Canadians. Managed well, intellectual property can lead to economic and social benefits and can contribute to Canadian innovation.

We found that the federal government does not know how much intellectual property it owns or how well it is being managed. Of the three science-based federal organizations we audited whose activities could be expected to generate intellectual property, two lacked adequate mechanisms and expertise to identify intellectual property—whether generated internally, as a result of their own activities, or externally in the course of contracted work.

Under government policy, when intellectual property is expected to result from a contract, the federal organization determines its ownership. With some specific exceptions, ownership is to go to the contractor in order to increase the potential for commercialization. We found that the Crown took ownership of the intellectual property in over half of all the contracts that we reviewed and, in many cases, without providing a rationale. We also found that Industry Canada and the Treasury Board of Canada Secretariat have not adequately monitored the application of the policy.

We found that there are significant errors in the government's data on intellectual property. If left uncorrected, these errors will undermine an evaluation, planned for 2011, of the policy on ownership of intellectual property resulting from contracted work.

Health and Safety in Federal Office Buildings

The federal government employs about 230,000 people who work in more than 1,400 buildings administered by Public Works and Government Services Canada (PWGSC) in all regions of the country. The government needs to adhere to policies and standards designed to protect the health and safety of employees. PWGSC is responsible for ensuring that the buildings it administers remain safe. Human Resources and Skills Development Canada (HRSDC), through its Labour Program, is responsible for administering and enforcing fire protection policy in these buildings, while individual departments have a responsibility for the health and safety of their employees.

We found that although departments are required to hold annual fire drills, they could not demonstrate that they were doing so in 33 percent of the buildings in our audit. Moreover, in almost all buildings where additional fire drills are required, departments were not holding them. We also found that for the majority of buildings in our audit, departments had not submitted fire safety plans to HRSDC's Labour Program as required by the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization. We noted that during our audit and in response to letters we sent departments indicating the serious nature of these deficiencies, the departments began to take corrective action.

HRSDC's Labour Program, for its part, has not established management systems to ensure that fire safety plans are reviewed and accepted for all federally occupied buildings. Nor can it demonstrate that it effectively administers the Standard for Fire Safety Planning and Fire Emergency Organization; it had reviewed the plans for only 19 of the 54 buildings in our audit and only 10 of those plans met the requirements and were accepted. We also found that the Labour Program lacks the information it needs to report on government-wide compliance with the Standard.

We found that while PWGSC has established clear internal policies and guidance for managing the condition and operations of the office buildings it administers, it could not demonstrate that its policies and guidance are consistently followed. Nor does it consistently correct all high-priority deficiencies it has identified in order to reduce risks to the health and safety of building occupants.

Interest on Advance Deposits from Corporate Taxpayers—Canada Revenue Agency

Through our annual financial audits of the Canada Revenue Agency, we found that a number of corporate taxpayers are maintaining large balances—totalling more than \$4 billion—on deposit with the Agency from year to year. Tax overpayments earned between five and seven percent interest during the past three years. We looked at whether the Agency adequately administers advance deposits under the *Income Tax Act* and regulations and at how it monitors and manages accounts where it might be obliged to pay interest.

We found that the Agency has known since 1991 that some corporations were depositing and leaving large balances in their accounts. At the time, the Agency questioned whether they were doing so to take advantage of the favourable interest rates. More recently, it concluded that most of the balances are refundable to the corporations, in many cases along with interest owing. When this occurs, the government will have paid interest at a higher rate than its own cost of borrowing. We conservatively estimate, based on a limited number of accounts, that the difference between the government's borrowing rate and the interest rates on these deposits represents a total of at least \$90 million in unnecessary interest costs over the past three years.

The Agency has attempted over the years to refund as many of these balances to the corporations as possible, but with limited success. It has not discussed this matter with the Department of Finance Canada, as it would normally do when it faces compliance challenges.

Financial Management and Control—National Defence

National Defence has an annual budget of almost \$19 billion and manages more than \$33 billion in equipment, inventory, and real estate. The financial decisions it makes have long-term impacts not only on the organization but on the safety and security of the nation. The Department's success in meeting its obligations under the government's defence policies hinges on its ability to manage its financial resources.

Our audits since the early 1990s have pointed to problems in financial management and controls at National Defence, and the Department itself has identified improving in this area as a priority. Our audit found that the Department has taken some steps in this direction. It has some basic elements of good financial control, including compliance with legislative and government requirements for financial reporting. It has kept its annual spending within authorized funding limits.

However, National Defence cannot demonstrate that its financial management systems and practices support resource management, corporate planning, and decision making, especially for the medium to long term. While the Department invests a lot of time in business planning, the result is a series of short-term operational plans for each division. There is no business plan that links defence strategy to objectives and the associated risks, activities, resources, and expected results. Such a plan is needed to guide decision making and resource management across the Department.

In addition, most of the systems that feed information into the Department's main financial system are not designed to support financial management. They are designed to support operational requirements. Furthermore, due to the lack of accurate and timely financial information for decision makers, the Department did not know until the end of the 2007–08 fiscal year that \$300 million of that year's funding was unspent and not available to be carried forward.

The Department does not yet integrate risk management in its planning and financial management activities. We could not find evidence that senior decision makers are routinely briefed on the status of key risks across the organization. As a result, they lack the information they need to plan and allocate resources for managing key risks to National Defence objectives.

Selected Contribution Agreements—Natural Resources Canada .

Natural Resources Canada (NRCan) administers a number of contribution programs. The Department's internal audits of five contribution agreements found significant breaches of the agreements' terms and conditions; NRCan management brought the internal audit findings to our attention in August 2006.

We found a serious conflict of interest. The same consultant who provided services to the Department in relation to the contribution programs also worked for the organizations with whom the Department signed the five agreements. The consultant developed draft funding proposals that the organizations submitted to the Department, and he worked for them under contract after the agreements were signed. He also became president of one of the recipient organizations. NRCan was aware of these arrangements but did not consider them to represent a conflict of interest.

In our view, changes made by NRCan to address its internal audit findings on the management of contribution agreements are not adequate to prevent recurrences.

Special Examinations of Crown Corporations—2008

Parliamentarians have expressed an interest in knowing more about how Crown corporations operate. The last chapter in the Report is our second annual summary of the special examinations of Crown corporations that we completed in the previous year.

Between 31 March and 31 December 2008, we issued special examination reports on eight Crown corporations, the Main Points of which are included in the chapter:

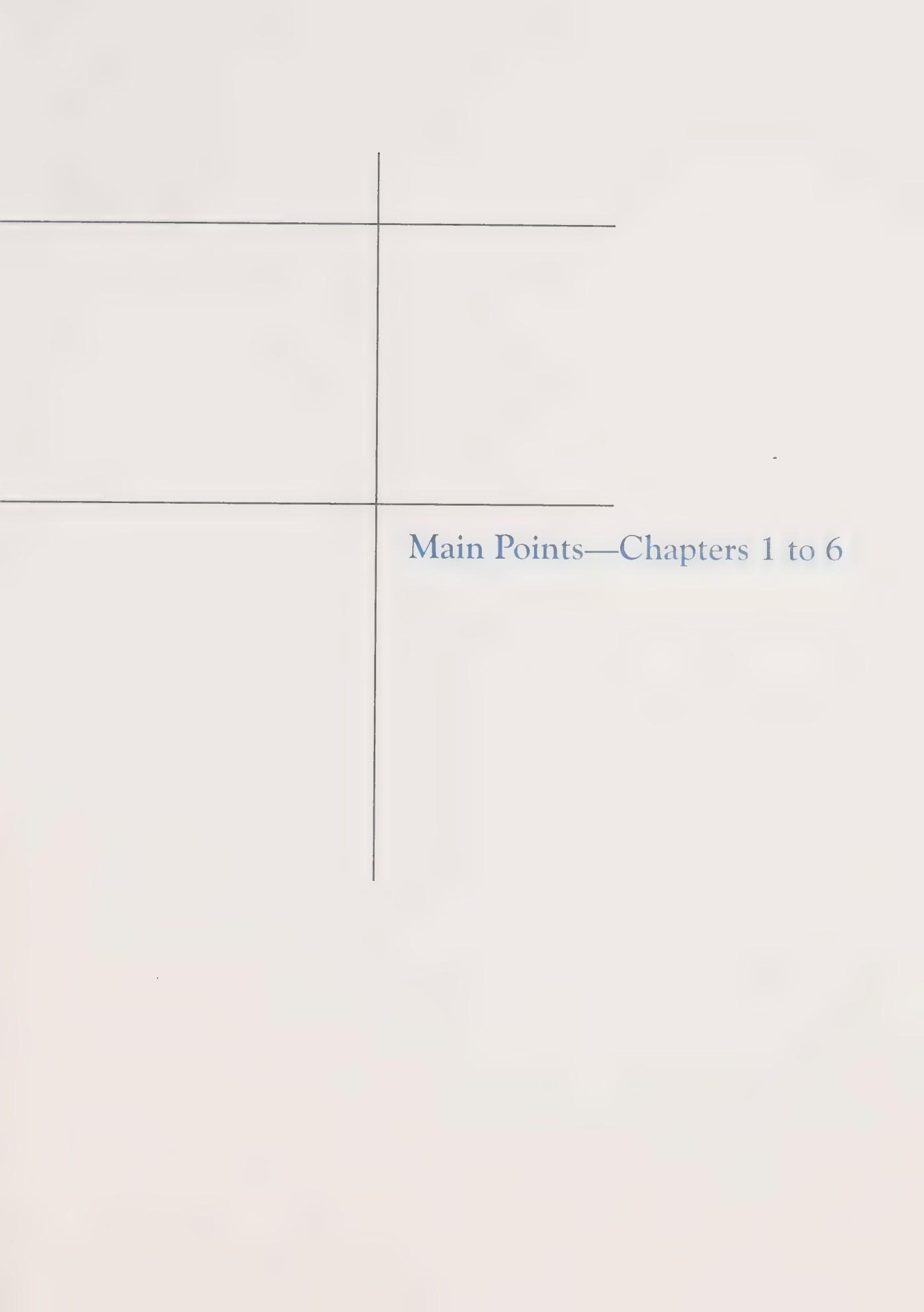
- Canada Council for the Arts
- Defence Construction (1951) Limited
- The Federal Bridge Corporation Limited
- Great Lakes Pilotage Authority
- International Development Research Centre
- Pacific Pilotage Authority
- Parc Downsview Park Inc.
- VIA Rail Canada Inc.

We identified one or more significant deficiencies in three of the corporations:

- The Federal Bridge Corporation Limited had significant deficiencies related to securing funds and to oversight by the board.
- Great Lakes Pilotage Authority had a significant deficiency related to its operations.
- VIA Rail Canada Inc. had a significant deficiency in its ability to meet its strategic challenges.

We brought the significant deficiencies in all three corporations to the attention of the responsible ministers.

Until recently, Crown corporations were required to undergo a special examination at least once every five years. In early 2009, the *Budget Implementation Act* changed the reporting cycle to at least once every 10 years, a change that we fully support. Additional changes require that special examination reports be submitted to the appropriate minister and to the President of the Treasury Board 30 days after we provide them to the corporation's board of directors and that they be made public within 60 days.



Main Points—Chapters 1 to 6



Gender-Based Analysis

Chapter 1

What we examined

Main Points

Gender-based analysis (GBA) is an analytical tool that can be used to assess how the impact of policies and programs on women might differ from their impact on men. GBA is intended to allow for gender differences to be integrated in the policy analysis process. Coinciding with the United Nations' Fourth World Conference on Women in 1995, the federal government committed to implement gender-based analysis throughout its departments and agencies. Such analysis was to guide decision makers by informing them about any potential impact that policies, programs, or proposals might have on people because of their gender. Since then, the government has reiterated in a number of announcements that it intends to implement GBA. In April 2008, the House of Commons Standing Committee on the Status of Women recommended, in its ninth report, that our Office examine the implementation of gender-based analysis in the federal government.

Our audit looked at seven departments whose responsibilities can impact men and women differently—The Department of Finance Canada, Health Canada, Human Resources and Skills Development Canada (HRSDC), Indian and Northern Affairs Canada (INAC), the Department of Justice Canada, Transport Canada, and Veterans Affairs Canada. We examined whether they had established a framework to support GBA and had reported the results of their analyses in Treasury Board submissions and memoranda to Cabinet. We looked at 68 recent programs, policy initiatives, and acts of legislation developed in these seven departments to see whether they had undergone gender-based analysis. Our audit did not include verifying the data and research on gender impacts or challenging the conclusions of the analyses.

We also looked at the role played by the Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada in challenging whether departments and agencies had identified potential gender impacts of proposals submitted for Cabinet approval. In addition, we examined the role played by Status of Women Canada in supporting the implementation of GBA in the federal government.

Why it's important

Gender-based analysis can contribute to attaining the overarching goal of gender equality. International organizations such as the Council of Europe, the United Nations, and the World Health Organization have emphasized that to have a positive impact on society, social policies and legislation in areas such as immigration, agriculture, and disease prevention need to reflect the differences in the obstacles and barriers faced by men and by women.

Failure to consider that men and women can be affected differently by similar situations can lead to policies that ignore the impacts on gender. For example, cardiovascular disease (CVD) is the number one killer of women. Because CVD has traditionally been considered a men's disease, research in the field has focused on middle-aged men, ignoring the fact that some women with heart disease might have different symptoms from those typically experienced by men. This could affect the drugs and the dosages prescribed to women. It could also lead women to ignore the symptoms of heart disease and wait too long to seek medical help.

What we found

- Despite the government commitment to GBA that has continued since 1995, there is no government-wide policy requiring that departments and agencies perform it. The existence and completeness of a GBA framework varied considerably among the departments we examined. For example, while INAC has implemented all key elements of an appropriate GBA framework, Transport Canada and Veterans Affairs Canada have no GBA framework.
- While some of the departments are making efforts to improve their GBA practices, few of those that are performing GBA can provide evidence that demonstrates these analyses are used in designing public policy. In 30 of the 68 initiatives we examined, gender impacts had been analyzed but there was no evidence that the analysis was considered in developing public policy options. In 8 initiatives, departments were able to demonstrate why GBA was not considered relevant. For 26 initiatives, we could find no evidence that gender impacts had been considered at all. Only in 4 initiatives was there evidence that GBA had been integrated in the policy development process.
- For the sampled initiatives, departments provided limited information to Cabinet and the Treasury Board on gender impacts of proposals. We found no reference to gender impacts in 15 of 28 memoranda to Cabinet and in 8 of 21 Treasury Board submissions. There was nothing to indicate whether those who submitted these had determined gender impacts to be irrelevant,

whether there was another reasonable explanation for the absence of this information, or whether gender impacts had ever been considered.

- The 2007 revised Guide to Preparing Treasury Board Submissions reminds departments and agencies that GBA information should be reported in submissions. The new 2008 guide on drafting memoranda to Cabinet has not clarified how and when gender impacts are to be considered and reported to Cabinet in policy proposals.
- While central agencies have all appointed GBA champions, they could not demonstrate that their analysts had reviewed and, when appropriate, challenged gender impacts of spending initiatives or policy proposals submitted by departments for approval. We noted that central agencies have made efforts to improve GBA training for the policy analysts responsible for challenging spending initiatives or policy proposals.

The central agencies and Status of Women Canada have responded. Detailed responses from the central agencies (Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada) and Status of Women Canada follow each recommendation throughout the chapter. The central agencies disagree with our recommendations that they document their challenge of departmental gender-based analyses.



Intellectual Property

Chapter 2

Main Points

What we examined

Intellectual property includes rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields. This includes all intellectual creation legally protected through patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets and confidential information. The federal government generates intellectual property as a component of activities carried out under federal contracts to procure goods and services. Intellectual property is also generated by the federal government through its own science and research activities.

Our audit looked at how intellectual property is managed in three federal science-based organizations—the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada. We examined to what extent they comply with federal policy in managing intellectual property that arises in the course of contracted activities and how adequately they manage intellectual property generated by their own employees.

Our audit also looked at the roles of Industry Canada and the Treasury Board of Canada Secretariat in monitoring the application of the federal policy governing intellectual property that arises under Crown procurement contracts. In addition, we looked at the roles of the Treasury Board of Canada Secretariat and the Canada Public Service Agency in monitoring compliance with the Award Plan for Inventors and Innovators Policy.

Why it's important

Intellectual property is a valuable asset that can be bought, sold, licensed, lost, or stolen, and it should therefore be managed effectively. This includes knowing how and when to protect intellectual property. The National Research Council Canada, for example—by far the federal government's largest producer of inventions—spends more than \$1.6 million a year to protect the patents it holds, which produced \$5 million in revenue in the 2006–07 fiscal year. In calendar year 2006, billions of dollars in federal contracts were reported to contain some element of intellectual property.

Managed well, intellectual property can lead to economic and social benefits and contribute to Canada's innovation. Whether used for policy development, decision making, advancement of knowledge, or national security, intellectual property is a strategic asset that can help the federal government better serve the interests of Canadians. For example, the National Research Council Canada developed a vaccine for meningococcal disease that is currently being marketed in Canada and internationally. If intellectual property is managed poorly, however, the government could lose the ability to manage its intellectual property for the benefit of Canada. This includes losing the social benefits, such as improved health care, and the economic benefits, such as having more profitable companies.

The 2007 federal Science and Technology Strategy, Mobilizing Science and Technology to Canada's Advantage, recognizes that intellectual property is a critical component of the overall innovation system. The creation, development, and protection of intellectual property are critical early steps in the innovation process. Ongoing monitoring of the federal intellectual property regime is important to ensure that the intellectual property arising from federal investments in research translates into value for Canadians.

What we found

- Nearly 20 years after the federal government decentralized the management of intellectual property to federal entities, the mixture of legislation and policies governing it has resulted in a variety of management practices, some of which are inadequate. Neither Health Canada nor Fisheries and Oceans Canada has a department-wide policy, and both lack adequate mechanisms and expertise to consistently identify and disclose intellectual property generated by its employees. Despite their significant expenditures on science and technology, including millions of dollars in research and development, and the number of scientists and researchers they employ, there is very little disclosure of inventions developed by public servants in these two departments. The National Research Council Canada, however, has an entity-wide policy and adequately identifies its inventions by involving and training its researchers and officers at its institutes.
- The federal government is not in a position to know whether the objective of the eight-year-old Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts is being met. It does not know how much intellectual property is generated externally in the course of contracted work. None of the entities we audited adequately identifies and reports whether work performed under contract is likely to generate intellectual property. The three science-based organizations we examined have not assessed whether the

Policy has been implemented and applied within their respective organizations. Although the Policy states that intellectual property should rest with the Crown only in exceptional cases, ownership was retained by the Crown in over half the contracts that we reviewed at Health Canada and Fisheries and Oceans Canada, often without clear justification. Industry Canada and the Treasury Board of Canada Secretariat have not adequately fulfilled their obligations to monitor the application of the Policy, with a focus on cases where exceptions were involved, and to evaluate the Policy.

- Since the introduction of the Award Plan for Inventors and Innovators Policy in 1993, the effectiveness of departmental and agency award plans and of the Policy itself have not been assessed. With the exception of one award in 1994, none of the entities we audited has distributed financial awards for the government use of inventions. With no assessment of the award plans and of the Policy itself, the federal government does not know if it has the appropriate financial incentives in place to encourage the commercialization of internally generated intellectual property or the use of inventions within the government.

The entities and the Secretariat have responded. The entities and the Secretariat agree with all of our recommendations. Their detailed responses follow each recommendation throughout the chapter.



Health and Safety in Federal Office Buildings

Chapter 3

Main Points

What we examined

Responsibility for ensuring the health and safety of federal employees working in a federally administered office building is shared among many parties. Public Works and Government Services Canada (PWGSC) is responsible for ensuring that federally occupied buildings, their operating systems, and equipment remain safe in accordance with applicable laws and regulations. Human Resources and Skills Development Canada (HRSDC), through its Labour Program, is responsible for administering and enforcing fire protection policy and standards in federally occupied buildings. In addition, individual departments have a responsibility for the health and safety of their employees working in those buildings.

We examined whether PWGSC manages the operation and maintenance of buildings under its administration in a way that effectively minimizes risks to the health and safety of building occupants.

We also assessed whether departments were planning for fire emergencies in compliance with key requirements of the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (the Standard), including conducting required fire drills. In addition, we looked at the activities of Fire Protection Services (formerly called the Fire Commissioner of Canada), the division within HRSDC's Labour Program responsible for administering and enforcing this Standard. We also looked at the role of the Labour Program's regional and district offices in reviewing fire safety plans for buildings occupied by the federal government.

We looked at buildings administered by PWGSC to see whether the departments had adhered to the applicable policies and standards. Our audit focused on general-purpose office buildings administered by PWGSC and did not consider special-purpose buildings, the Parliamentary Precinct, or buildings administered by other government departments or agencies. We did not look at occupational health and safety programs of government departments. Our audit was not designed to assess the health and safety of a building, but rather to

examine the practices departments have in place to manage and mitigate risks to the health and safety of building occupants.

Why it's important

The federal government employs about 230,000 people in all regions of Canada who work in more than 1,400 buildings administered by PWGSC. In an organization of such magnitude, with high-rise buildings accommodating often thousands of workers, it is important that all established policies and standards are consistently adhered to. An overall culture of safety, promoted by management and including good building evacuation plans, fire evacuation drills, and properly maintained facilities, could greatly reduce the risks to the health and safety of employees. A sound framework for the maintenance and operation of buildings is critical to the health and safety of federal employees.

What we found

- Although departments are required to hold annual fire evacuation drills in order to train employees and test evacuation procedures, in 33 percent of the 54 buildings we looked at, departments could not demonstrate that they were doing so. Furthermore, the departments occupying almost all of the high buildings we reviewed are not carrying out the additional drills required. Departments do not comply with key requirements of the Standard for Fire Safety Planning and Fire Emergency Organization. For example, fire safety plans for the majority of buildings in our audit have not been submitted to HRSDC's Labour Program—the federal government's technical authority on fire safety—for review and acceptance. In response to concerns we raised during our audit about the lack of reviewed and approved fire safety plans and to letters we sent to departments drawing particular attention to non-compliance with fire drill requirements, departments began to take corrective action in order to address those deficiencies.
- HRSDC's Labour Program does not fully administer and enforce the Standard for Fire Safety Planning and Fire Emergency Organization. There is no government-wide monitoring of participation in fire evacuation drills. In addition, the Labour Program does not have adequate management systems in place to ensure that it reviews fire safety plans for all government buildings to determine whether they are adequate to evacuate employees in an emergency. The Labour Program had reviewed the plans for only 19 of the 54 buildings included in our audit (35 percent) and only 10 of these plans met the requirements of the Standard and were accepted.

- PWGSC has established clear internal policies and guidance for managing the condition and operation of office buildings under its administration. However, the Department could not demonstrate that established practices were followed consistently. We noted, for example, that in leased properties, PWGSC staff were not carrying out required building performance reviews in accordance with the Department's guidance.
- While PWGSC has a list of repairs and maintenance projects that it has identified to correct high-priority deficiencies, including those related to health and safety, it cannot demonstrate that the list is complete and accurate. Of the 280 projects on the list related to the 23 Crown-owned buildings we examined, 59 percent had been completed or substantially completed within the time frame required. Of the remaining projects, the Department deferred 12 percent and cancelled 4 percent; it was unable to provide sufficient documentation to demonstrate that another 4 percent had been completed or substantially completed. In addition, the Department has told us that, after further investigation during our audit, the remaining 21 percent of projects had been misclassified as high priority or included in the Building Management Plan in error. As a result, PWGSC cannot demonstrate that it is meeting its policy requirements to correct all high-priority deficiencies within the next fiscal year.

The departments and agencies have responded. All departments and agencies agree with our recommendations and have committed to implementing corrective action. In some cases, this action has already begun. Detailed responses can be found in the **Responses to Recommendations** section, starting on page 31.



Interest on Advance Deposits from Corporate Taxpayers—Canada Revenue Agency

Chapter 4 Main Points

What we examined

Corporate taxpayers who anticipate a reassessment of their income tax returns by the Canada Revenue Agency for a certain tax year may remit funds in advance, which the Agency will hold to apply when the reassessment is processed. Reassessments are fairly routine for corporate taxpayers, and the Agency asks that, when they make an advance deposit, they indicate the tax year to which the expected reassessment relates. For the majority of corporations, the amounts they deposit in advance are in line with the amount of tax they expect to be reassessed.

Our financial audits of the Agency noted that a number of corporations are maintaining large balances—totalling more than \$4 billion—on deposit with the Agency from year to year. Tax overpayments earned a rate of interest ranging between five percent and seven percent during the past three years. We decided to examine whether the Agency adequately administers advance deposits from corporate taxpayers under the *Income Tax Act* and *Income Tax Regulations* and whether it adequately monitors and manages accounts where it might be obliged to pay interest. We looked at the 50 largest accounts of corporate taxpayers, representing two thirds of the total balance on hand. Our review of these files went back three years.

Why it's important

The Canada Revenue Agency is responsible for administering Canada's tax system in a way that protects the tax revenue base. In our view, this would include ensuring that it does not make large interest payments that could be avoided and advising the Department of Finance Canada if it believes existing legislation is resulting in any unintended consequences.

What we found

- In 1991, the Agency recognized—soon after a change in the *Income Tax Regulations* raised the prescribed interest rate on overpayments to its present level—that certain corporations were depositing and leaving large balances on their accounts. It questioned whether they were doing it to take advantage of the favourable interest rates. More recently, when preparing the Agency's year-end audited financial statements, senior officials of the Agency concluded that most of the

balances are refundable to the corporations. In many cases, refunds will ultimately be made, along with interest that has accrued over the years. Where this proves to be the case, the government will, in effect, have paid interest at a higher rate than its own cost of borrowing. We conservatively estimate, based on a limited number of accounts, that the difference between the government's borrowing rate and the interest rates on these deposits represents at least \$30 million in unnecessary interest costs for each of the past three years.

- The Agency launched a number of initiatives over the years to refund as many of these balances as possible, but with limited success. If a corporation did not choose to withdraw its balance, the Agency accepted the decision. Officials told us that in the absence of voluntary cooperation by the taxpayer, the Agency held the balance in the taxpayer's account. Although it normally informs the Department of Finance Canada of any compliance challenges that could signal the need for legislative change, the Agency has not discussed this matter with the Department of Finance Canada or proposed any solutions to reduce interest costs. We note that other jurisdictions limit the interest payable in similar situations.
- As tax legislation is silent on whether the Agency can accept or refund advance deposits, the Agency developed an administrative practice. This practice was designed to allow corporations to minimize interest costs where there is a bona fide risk of reassessment. However, the Agency is not currently requiring corporations to follow guidance it has published in its Corporation Instalment Guide, and key aspects of the Agency's practices for managing advance deposits remain unclear. For example, corporations frequently do not identify the tax year to which their advance deposits relate. Moreover, although the guide discusses accepting payments only in the context of "anticipated reassessments," the Agency does not have a process in place for checking its own files to see if a reassessment is in the works and if the amount deposited is in line with the amount likely to be reassessed.

The Agency has responded. The Agency agrees with our recommendation. Its detailed response follows the recommendation in the chapter.



Financial Management and Control— National Defence

Chapter 5

Main Points

What we examined

Effective financial management means having the financial and risk information an organization needs to make sound decisions in planning, delivering, monitoring, and evaluating its programs and activities. It is a critical part of managing that helps an organization assess the cost of achieving its objectives and contributes to managing its risks. Relevant financial information and control systems are essential to ensuring that managers have access to sound, up-to-date financial information for decision making.

National Defence has an annual budget of almost \$19 billion and manages over \$33 billion in equipment, inventory, and real estate. Over the past few years, the Department has experienced real growth in funding—a trend that is projected to continue. Our audit examined whether National Defence’s financial management practices support financial decision making, resource management, planning, and management of risks. We focused on the activities of the senior managers who are responsible for deciding how the Department’s funding will be allocated and what major investments the Department will make.

Why it’s important

With annual total spending in the billions of dollars and operations around the world, National Defence is one of the largest government departments. The Department’s financial decisions have long-term impacts not only on the organization, but also on the safety and security of the nation. The Department’s success in meeting its obligations under the government’s defence policies hinges on its ability to manage its financial resources. A decision made one year—for example, to invest in major equipment with prolonged delivery schedules and an extensive useful life—can have financial implications for many years ahead. Good financial management is especially important given that the Department is allowed to carry forward surplus funds currently equivalent to only 1 percent of its funding, compared with the 5 percent allowed most other departments. Although its budget and carry-forward is large in real terms, National Defence must manage financially within tighter parameters.

National Defence has identified financial management as a priority for many years. Audits by our Office since the early 1990s have also identified financial management and controls as areas that need attention in the Department.

What we found

- National Defence has taken steps to strengthen financial management and control. It has some basic elements of good financial control, including compliance with legislative and government requirements for financial reporting, and it has kept its annual spending within authorized funding limits. However, National Defence's governance structure is not sufficiently focused on financial management. We also noted that the Department's draft governance framework does not mention the responsibilities and accountabilities of the Chief Financial Officer, a position required under the Treasury Board of Canada's new Policy on Financial Management Governance.
- National Defence invests a lot of time in business planning, but the result is a series of short-term operational plans for each division. There is no corporate business plan that links defence strategy to objectives and associated risks, activities, resources, and expected results with medium- and long-term plans in order to guide decision making and resource management across the Department.
- The Department's financial management and monitoring of resources may not be adequate to support decision making by senior management. The lack of accurate and timely information for decision makers contributed to the lapsing of more than \$300 million in funding that was available during the 2007–08 fiscal year but is now permanently unavailable to National Defence.
- The Department is aware of the need to manage the risks associated with its responsibilities. However, its integrated risk management framework has not yet been incorporated in the analysis, recommendations, and reports used by senior management. Consequently, senior management lack the information needed to plan for and allocate resources to manage key risks that could impact National Defence in meeting its objectives.

The Department has responded. The Department agrees with our recommendations. Its detailed responses follow each recommendation throughout the chapter.



Selected Contribution Agreements— Natural Resources Canada

Chapter 6

What we examined

Main Points

Natural Resources Canada (NRCan) seeks to enhance the responsible development and use of Canada's natural resources and the competitiveness of Canada's natural resources products. It devotes a significant portion of its budget to grants and contributions, some of which are administered by its Office of Energy Efficiency. In fiscal year 2007–08, NRCan's voted grants and contributions accounted for over \$211 million, of which \$28 million or 13 percent was in the Office of Energy Efficiency program area.

Between April 2003 and March 2005, NRCan's Office of Energy Efficiency entered into five contribution agreements with three private sector organizations to deliver programs designed to address greenhouse gas emissions in the transportation sector. The total amount disbursed under the five agreements was about \$5.9 million.

At the request of NRCan senior management, the Department's internal auditors carried out audits of the five agreements. The audits identified material breaches of the terms and conditions of the contribution agreements, which NRCan brought to our attention in August 2006.

We examined NRCan's actions in entering into and managing these five contribution agreements and also considered whether controls the Department now has in place would be adequate to prevent recurrences of the matters identified in the Office of Energy Efficiency program area.

Our conclusions relate only to the management practices and actions of public servants. The policies and requirements to which we refer apply only to public servants and not to private sector consultants or organizations. We did not audit the records of private sector consultants or organizations. Consequently, our conclusions cannot and do not pertain to any practices that private sector consultants or organizations followed or to their performance.

Why it's important

The government has many ways to pursue public policy objectives, including transfer payments to individuals, organizations, and other levels of government. Contributions are transfer payments that are subject to performance conditions specified in a contribution agreement with the recipient. The recipient must show that it is meeting the performance conditions in order to be reimbursed for specific costs over the life of the agreement. The government can audit the recipient's compliance with the performance conditions.

The terms and conditions specified in a contribution agreement detail the government's expectations of the recipient of the funds. It is important for government to establish compliance with these terms and conditions in order to ensure that it is achieving the intended results of the agreement. Similarly, an essential control over the expenditure of public money is contained in section 34 of the *Financial Administration Act*, which requires certification that amounts are paid in accordance with the terms and conditions of an agreement.

It is important that government business be conducted openly and fairly, and that conflicts of interest, in fact and in appearance, be avoided.

What we found

- Before signing the five contribution agreements, NRCan knew that a consultant who had provided services to the Department relating to the contribution programs would also be working for the organizations that received NRCan funding under these programs. In our view, this is a conflict of interest that NRCan did not identify.
- Payments totalling about \$3.2 million that NRCan made under the contribution agreement with CEEA Transport were not in accordance with the terms and conditions of the agreement. Similarly, payments to the Canadian Energy Efficiency Alliance and the Canadian Natural Gas Vehicle Alliance were not in accordance with the terms and conditions of their contribution agreements. The Department also did not satisfy its obligation under section 34 of the *Financial Administration Act*, which, in the case of a contribution agreement, requires certification that amounts are paid in accordance with the terms and conditions of the agreement.
- In response to the findings of its internal audits, NRCan has since implemented a number of changes and improvements in its management practices for contribution agreements. However, the practices still do not include adequate independent monitoring to ensure that the management of contribution agreements respects the requirements of the *Financial Administration Act*, the Treasury

Board of Canada Policy on Transfer Payments, and the Department's own policy and practices governing contribution agreements. Nor has the Department developed policies and guidance on conflict of interest in contribution agreements to prevent recurrences.

The Department has responded. The Department agrees with both of our recommendations. Its detailed responses follow each recommendation in the chapter.

Report of the Auditor General of Canada to the House of Commons—Spring 2009

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SPRING

Report of the
**Auditor General
of Canada**
to the House of Commons

Chapter 1
Gender-Based Analysis



Office of the Auditor General of Canada



2009



SPRING

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**Auditor General
of Canada**
to the House of Commons

Chapter 1
Gender-Based Analysis



Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

The Report is available on our website at www.oag-bvg.gc.ca.

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Chapter

1

Gender-Based Analysis

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Gender-Based Analysis

Main Points

What we examined

Gender-based analysis (GBA) is an analytical tool that can be used to assess how the impact of policies and programs on women might differ from their impact on men. GBA is intended to allow for gender differences to be integrated in the policy analysis process. Coinciding with the United Nations' Fourth World Conference on Women in 1995, the federal government committed to implement gender-based analysis throughout its departments and agencies. Such analysis was to guide decision makers by informing them about any potential impact that policies, programs, or proposals might have on people because of their gender. Since then, the government has reiterated in a number of announcements that it intends to implement GBA. In April 2008, the House of Commons Standing Committee on the Status of Women recommended, in its ninth report, that our Office examine the implementation of gender-based analysis in the federal government.

Our audit looked at seven departments whose responsibilities can impact men and women differently—The Department of Finance Canada, Health Canada, Human Resources and Skills Development Canada (HRSDC), Indian and Northern Affairs Canada (INAC), the Department of Justice Canada, Transport Canada, and Veterans Affairs Canada. We examined whether they had established a framework to support GBA and had reported the results of their analyses in Treasury Board submissions and memoranda to Cabinet. We looked at 68 recent programs, policy initiatives, and acts of legislation developed in these seven departments to see whether they had undergone gender-based analysis. Our audit did not include verifying the data and research on gender impacts or challenging the conclusions of the analyses.

We also looked at the role played by the Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada in challenging whether departments and agencies had identified potential gender impacts of proposals submitted for Cabinet approval. In addition, we examined the role played by Status of Women Canada in supporting the implementation of GBA in the federal government.

Why it's important

Gender-based analysis can contribute to attaining the overarching goal of gender equality. International organizations such as the Council of Europe, the United Nations, and the World Health Organization have emphasized that to have a positive impact on society, social policies and legislation in areas such as immigration, agriculture, and disease prevention need to reflect the differences in the obstacles and barriers faced by men and by women.

Failure to consider that men and women can be affected differently by similar situations can lead to policies that ignore the impacts on gender. For example, cardiovascular disease (CVD) is the number one killer of women. Because CVD has traditionally been considered a men's disease, research in the field has focused on middle-aged men, ignoring the fact that some women with heart disease might have different symptoms from those typically experienced by men. This could affect the drugs and the dosages prescribed to women. It could also lead women to ignore the symptoms of heart disease and wait too long to seek medical help.

What we found

- Despite the government commitment to GBA that has continued since 1995, there is no government-wide policy requiring that departments and agencies perform it. The existence and completeness of a GBA framework varied considerably among the departments we examined. For example, while INAC has implemented all key elements of an appropriate GBA framework, Transport Canada and Veterans Affairs Canada have no GBA framework.
- While some of the departments are making efforts to improve their GBA practices, few of those that are performing GBA can provide evidence that demonstrates these analyses are used in designing public policy. In 30 of the 68 initiatives we examined, gender impacts had been analyzed but there was no evidence that the analysis was considered in developing public policy options. In 8 initiatives, departments were able to demonstrate why GBA was not considered relevant. For 26 initiatives, we could find no evidence that gender impacts had been considered at all. Only in 4 initiatives was there evidence that GBA had been integrated in the policy development process.
- For the sampled initiatives, departments provided limited information to Cabinet and the Treasury Board on gender impacts of proposals. We found no reference to gender impacts in 15 of 28 memoranda to Cabinet and in 8 of 21 Treasury Board submissions. There was nothing to indicate whether those who submitted these had determined gender impacts to be irrelevant,

whether there was another reasonable explanation for the absence of this information, or whether gender impacts had ever been considered.

- The 2007 revised Guide to Preparing Treasury Board Submissions reminds departments and agencies that GBA information should be reported in submissions. The new 2008 guide on drafting memoranda to Cabinet has not clarified how and when gender impacts are to be considered and reported to Cabinet in policy proposals.
- While central agencies have all appointed GBA champions, they could not demonstrate that their analysts had reviewed and, when appropriate, challenged gender impacts of spending initiatives or policy proposals submitted by departments for approval. We noted that central agencies have made efforts to improve GBA training for the policy analysts responsible for challenging spending initiatives or policy proposals.

The central agencies and Status of Women Canada have responded. Detailed responses from the central agencies (Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada) and Status of Women Canada follow each recommendation throughout the chapter. The central agencies disagree with our recommendations that they document their challenge of departmental gender-based analyses.

Introduction

Background

1.1 Gender-based analysis (GBA) is an analytical tool whose objective is to examine the differential impacts on both women and men of government policies, programs, and legislation. GBA can help in integrating social, economic, and other gender differences into policy analysis. It can also contribute to efforts toward the overarching goal of gender equality.

1.2 For example, a GBA might show that a program is not implemented properly to meet some of women's unique socio-economic circumstances or it might show that a program has a negative impact on men because of a poorly designed policy initiative. Exhibit 1.1 shows how GBA could be integrated in policies related to cardiovascular disease in women, for example.

Exhibit 1.1 Gender-based analysis can deepen understanding of health issues

Cardiovascular disease has historically been considered a disease affecting men. It has only recently been recognized as the major cause of death in Canada for women as well. Consequently, women might be greatly under-represented in medical research related to cardiovascular disease.

Studies have shown that women are more likely than men to have subtle symptoms of heart attack, such as indigestion, abdominal or mid-back pain, nausea, and vomiting. Many women may ignore these symptoms and wait too long to seek medical help.

Applying GBA to cardiovascular disease highlights how risk factors, symptom patterns, and outcomes differ for women and men, thus the need to integrate gender impacts into health-based policy and program development.

Source: Adapted from Status of Women Canada, *Applying GBA: An Example* (2004) and Health Canada, *Exploring Concepts of Gender and Health*, 2003

1.3 Gender-based analysis can help the government identify impacts on gender when designing policies or programs. The findings of a GBA are only one set of factors to be considered in decision making. Other considerations such as social, economic, fiscal, or environmental impacts, or how decisions might affect federal-provincial relations, might be given more weight. Other priorities of the government might also weigh more in the decision making process.

Federal commitments to perform gender-based analysis

1.4 Over the years, the government has made commitments to support the implementation of GBA and gender equality. On 18 December 1979, the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), also known as the Treaty for the Rights of Women. It came into effect on 3 September 1981 and Canada ratified it on 10 December 1981. As of October 2008, a total of 185 countries had ratified CEDAW.

1.5 The Treaty established the Committee on the Elimination of Discrimination against Women (CEDAW Committee) to consider and review the progress made by governments in implementing the Convention. Every four years, Canada submits a written report to the Committee about steps it has taken to comply with the Convention.

1.6 At the 1995 United Nations Fourth World Conference on Women, section 204(a) of the Beijing Declaration and Platform for Action recommended that governments “seek to ensure that before policy decisions are taken, an analysis of their impact on women and men, respectively, is carried out.”

1.7 Immediately before the 1995 UN Conference, the federal government published *Setting the Stage for the Next Century: The Federal Plan for Gender Equality*. This action plan called for the implementation of GBA throughout federal departments and agencies. In it, the federal government made a series of commitments for

- the development and application of tools and methodologies for carrying out gender-based analysis,
- training on gender-based analysis of legislation and policies,
- the development of indicators to assess progress made toward gender equality,
- the collection and use of gender-disaggregated data as appropriate,
- the use of gender-sensitive language throughout the federal government, and
- the evaluation of the effectiveness of the gender-based analysis process.

1.8 In 2000, the federal government approved the *Agenda for Gender Equality*, a new five-year government-wide strategy. One of its components was “accelerating implementation of GBA in order to strengthen government policy capacity.”

1.9 Canada acceded to the Optional Protocol to CEDAW in 2002, demonstrating its commitment to the promotion of gender equality and fundamental human rights for women domestically and internationally. The Optional Protocol is a human rights treaty that enhances the CEDAW Committee's ability to oversee compliance with the Convention.

1.10 In 2002, in a report to CEDAW that addressed, among other things, the implementation of the 1995 *Federal Plan for Gender Equality*, the federal government stated that there was no formal requirement under the action plan to ensure compliance or implementation. It also stated that the action plan was the result of a collaborative effort between Status of Women Canada and government departments. Following that response, CEDAW recommended that Canada consider making gender-based analysis mandatory at all government levels.

1.11 In its responses to the House of Commons Standing Committee on the Status of Women's report, entitled *Gender-Based Analysis: Building Blocks for Success* (tabled in 2005 and 2006), the government made important commitments with regard to GBA implementation and the role of central agencies and departments. It clarified who is accountable for implementing GBA under the 1995 *Federal Plan for Gender Equality*. It confirmed the responsibility of departments and agencies to ensure completion of a thorough analysis of proposed policies and programs, including the application of GBA and the inclusion of gender impacts in proposals. The government also clarified the responsibility of the Treasury Board of Canada Secretariat (TBS), the Privy Council Office (PCO), and the Department of Finance Canada (central agencies) to challenge whether federal departments and agencies give proper consideration to gender impacts.

1.12 Canada highlighted the importance of government-wide GBA implementation in a May 2007 report and in its October 2008 testimony before the UN Committee on the Elimination of Discrimination against Women. The implementation of GBA across the federal government is one element reported in Canada's report to the United Nations.

Gender-based analysis can support gender equality obligations

1.13 Implementing gender-based analysis can help the government meet its legal obligations under the *Canadian Charter of Rights and Freedoms* (Exhibit 1.2). The Charter sets a standard for gender equality to which all levels of government must adhere in their legislation and

programs. The implementation of GBA can also support the gender-equality principles stated in the *Canadian Human Rights Act* and in the *Constitution Act, 1982*, relating to Aboriginal treaty rights.

Exhibit 1.2 Statutory obligations to uphold gender equality

Two sections of the *Canadian Charter of Rights and Freedoms* deal with gender equality:

15.(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

[. . .]

28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

The *Canadian Human Rights Act* also states gender equality principles:

3.(1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted.

One section of the *Constitution Act, 1982*, relating to Aboriginal treaty rights states:

35(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

Source: *Constitution Act, 1982*, and *Canadian Human Rights Act* (R.S., 1985, c. H-6)

Responsibility for gender-based analysis within the federal government

1.14 Within the federal government, Status of Women Canada (SWC) leads the process of implementing the 1995 *Federal Plan for Gender Equality*. It is supposed to help departments build their capacity for gender-based analysis and support their efforts to create a GBA framework by developing and delivering training and tools, case studies, and public awareness materials. It also works strategically to guide other departments' efforts to integrate GBA into their policy analyses. Status of Women Canada represents Canada internationally on women's issues.

1.15 Departments and agencies, under the 1995 Plan, are responsible for thoroughly analyzing their proposed policies and programs; conducting GBA; and including consideration of gender impacts in their legislation, policy, and program analyses.

1.16 The central agencies—the Treasury Board of Canada Secretariat (TBS), the Privy Council Office (PCO), and the Department of Finance Canada—play a challenge role of ensuring that federal departments take into account all relevant factors, including gender impacts, in the development of policies, programs, and proposals being submitted for consideration to Treasury Board, Cabinet, and the Minister of Finance.

Focus of the audit

1.17 Our audit focused on whether selected departments are conducting gender-based analysis, and whether central agencies are reviewing the analysis, to adequately support the decision-making process for policy and program initiatives.

1.18 Our audit focused on 68 recent initiatives (programs, policies, or activities) and legislation developed in seven departments:

- the Department of Finance Canada,
- the Department of Justice Canada,
- Health Canada,
- Human Resources and Skills Development Canada,
- Indian and Northern Affairs Canada,
- Transport Canada, and
- Veterans Affairs Canada.

1.19 The initiatives sampled were announced in the 2007 and 2008 budgets, as well as in the 2007 Economic Statement and in other government announcements. They included spending, tax, and legislative proposals, some of which directly affected women and men.

1.20 Our audit further examined how the Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada perform a challenge role when they review the gender impacts of policy initiatives or spending proposals. We also reviewed the role Status of Women Canada plays in gender-based analysis. We looked at whether TBS, PCO, and SWC provided departments with appropriate GBA guidance on how to incorporate gender impacts in their Cabinet documents.

1.21 The Department of Finance Canada was unable to give us access to the documents supporting the gender impacts reported to the Minister of Finance as part of the approval process for Budget measures. In the government's view, the documents are considered

a Cabinet confidence of a type that could not be disclosed to us. As well, because we did not have access to the précis accompanying Treasury Board submissions, we were not able to assess fully if the TBS performed its challenge role.

1.22 More details on the audit objective, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Observations and Recommendations

Departmental frameworks for gender-based analysis

Some departments have implemented elements of a gender-based analysis framework

1.23 In 1995, the *Federal Plan for Gender Equality* called on all federal departments and agencies to implement gender-based analysis (GBA) by establishing an analytical process, or framework, for assessing the potential differential impacts of legislation and policies on women and men. Supported by Status of Women Canada (SWC), the government undertook to develop and apply GBA tools, provide training, and evaluate the effectiveness of its GBA practices. Under the Plan, departments or agencies seeking Cabinet approval of their policy and program proposals are expected to ensure that all relevant factors have been assessed, including gender equality factors. It is up to each organization to determine whether a gender-based analysis is appropriate or relevant and to ensure that the assessment is thorough and complete.

1.24 We examined progress toward meeting the federal commitment to implement GBA in seven departments; the Department of Finance Canada, the Department of Justice Canada, Health Canada, Human Resources and Skills Development Canada (HRSDC), Indian and Northern Affairs Canada (INAC), Transport Canada, and Veterans Affairs Canada. We expected to find that each of the organizations we examined could provide evidence that they had developed and implemented a framework for performing GBA. A sound GBA framework could include policies, defined roles and responsibilities, tools and methodologies, training, a champion, and evaluation of the effectiveness of GBA practices. These are key elements mentioned in the 1995 *Federal Plan for Gender Equality* and in the tools developed by Status of Women Canada.

1.25 We found considerable variation in the extent to which the selected departments had developed and implemented a GBA framework (Exhibit 1.3). We found that Indian and Northern Affairs Canada is the only department that not only had fully implemented

the elements of a sound GBA framework, but also had evaluated the effectiveness of its GBA practices. Transport Canada and Veterans Affairs Canada had not implemented any framework and therefore had limited GBA knowledge and analytical capacity.

1.26 The Department of Finance Canada plays two roles; it acts as a central agency and it develops and implements policies, during which it carries out GBA on itself. The Department started to implement a department-wide gender-based analysis framework in 2005. The Department has stated that it is committed to carrying out GBA, as indicated in the government responses to the Standing Committee on the Status of Women and on its intranet. Also, officials in the Department told us that a systemic approach to performing GBA is used. For example, the report template used to prepare briefing documents for the Minister of Finance on matters to be considered in budgets requires gender impacts to be reported, and for the 2008 Budget, tax policy analysts received a reminder of the need to perform GBA in support of budget proposals. As well, the Department has appointed a GBA champion at the Assistant Deputy Minister level to promote gender analysis, facilitate its use, raise the profile of GBA, and promote GBA training. Over the years, the GBA champion has made a number of presentations to officials and senior management on the

Exhibit 1.3 Implementation of a GBA framework varied greatly in the departments examined

Department	Departmental policy/commitment in effect	Roles and responsibilities defined	Tools and methodologies readily available	Training recently and regularly offered	Champion appointed	GBA practices evaluated
Department of Finance Canada	Yes	Yes	Yes	Yes	Yes	No
Department of Justice Canada	Yes	No	Yes	No	No	No
Health Canada	Yes	Yes	Yes	No	No	No
Human Resources and Skills Development Canada	Yes	Yes	Yes	Yes	No	No
Indian and Northern Affairs Canada	Yes	Yes	Yes	Yes	Yes	Yes
Transport Canada	Yes	No	No	No	No	No
Veterans Affairs Canada	Yes	No	No	No	No	No

Source: Review of departmental files by OAG

importance of performing GBA. Not only is gender-based analysis now part of the training offered to all policy analysts and managers, but a GBA section was also recently added to the Department's intranet, giving examples of analyses. As well, the Department reports on progress toward GBA implementation in the Tax Policy Branch in its annual Departmental Performance Report.

1.27 The Department of Justice Canada was one of the first federal organizations to establish practices to consider gender impacts. Its gender-equality work started in 1990, before the adoption of a government-wide commitment in 1995. In 1996, the Department established a Gender Equality Initiative and appointed its first Senior Adviser on Gender Equality. In 1997, it adopted a Policy on Gender Equality requiring that gender equality analysis be integrated into all of the Department's work. At the time, the Department had a GBA unit supported by a departmental working group—a network of over 50 gender equality specialists who ensured that gender equality analysis was applied in their areas of responsibility—and an advisory committee of approximately 20 employees from all levels within the Department. It had also developed tools and offered specific training on GBA. In 2004, the GBA unit was dissolved because the ultimate objective was to fully integrate the unit's analyses into the work of the Department.

Gender-equality practices were integrated into all departmental activities, and all employees became responsible for ensuring that gender impacts were taken into account as part of their work. For example, before a bill is tabled in Parliament, the Department reviews whether it complies with the *Canadian Charter of Rights and Freedoms*—particularly sections 15 and 28, which deal with equality rights. The Department of Justice Canada officials told us that the 1997 Policy on Gender Equality is still in effect and that GBA is done as an integral part of the policy process. However, the Department could not provide evidence that the analyses take place. The Department now has no focal point to help employees perform GBA. We were told that the tools developed were still available. However, since the Department's adoption of its integrated model in 2004, GBA training is no longer provided. Employees who joined the Department after 2004 may not have the knowledge or support to perform GBA. The Department has not appointed a GBA champion or monitored if employees are applying the policy consistently.

1.28 Health Canada adopted a Women's Health Strategy in 1999 that called for full integration of a gender-based analysis framework into all of the Department's program and policy development work. A GBA policy adopted in 2000 described the roles and responsibilities

of the Bureau of Women's Health and Gender Analysis and of departmental employees. A five-year plan to put GBA into full effect, the 2003 Gender-based Analysis Implementation Strategy provides for a training strategy, resources and tools, research, and monitoring and evaluation of GBA implementation. We saw evidence that tools to assist employees perform GBA are available. The Department has also identified a network of employees in branches and regions to act as GBA focal points and provide assistance in implementing GBA. Although the Bureau of Women's Health and Gender Analysis is required to support GBA activities, we found that its GBA team fluctuated between 0.5 and 4.0 full-time equivalents (FTEs) (for the period covered by the audit), which limited the amount of assistance it could provide. The First Nations and Inuit Health Branch developed its own GBA training modules and provided training sessions to its employees in the 2005–06 fiscal year. No other GBA training was available to Department staff; however, online GBA training has been piloted in the past year. Health Canada has no GBA champion and has not carried out the evaluation scheduled for 2008 in the Gender-based Analysis Implementation Strategy.

1.29 In 1995, Human Resources and Skills Development Canada, then called the Department of Human Resources Development Canada, gave its Women's Bureau responsibility for developing and implementing a gender-based analysis framework. In 2000, the practice of GBA was integrated into all Department activities, and each branch became responsible for conducting its own GBA. A network of “gender advisers” was established to achieve the Department’s overall goal of integrating gender analysis into policy and program development and delivery, in fulfillment of the 1995 government-wide commitment. In 2001, the Women’s Bureau was renamed the Gender Analysis and Policy Directorate to better reflect its mandate to promote GBA. The year 2003 saw the launch of the Policy on Gender Analysis, committing the Department to increasing the incorporation of gender analysis into policies, programs, legislation, and service delivery. In the same year, the Department was split into two entities—Human Resources and Skills Development Canada, and Social Development Canada—with resources for GBA divided between the successor departments. We were told that the split slowed down the application of GBA at Human Resources and Skills Development Canada. In February 2006, the two entities were merged into a single department named Human Resources and Social Development Canada. In 2008, the name was changed to Human Resources and Skills Development Canada. The Department’s focal point for GBA is now within the Strategic Policy and Research Branch;

this allows the Gender-Based Analysis Unit to exercise a challenge role through the Department's policy and planning committees. The unit has staff and tools to help employees perform GBA, it provides training publicized in various ways, and it is rebuilding the advisers' network. However, the Department has not appointed a GBA champion or evaluated its GBA practices.

1.30 In 1998, Indian and Northern Affairs Canada acted to meet the 1995 *Federal Plan for Gender Equality* when it created the Office of the Senior Advisor on Women's Issues and Gender Equality. In 1999, the Office became the Women's Issues and Gender Equality Directorate. The 1999 Gender-Based Analysis Policy requires the application of a gender-based analysis framework in all of the Department's work. The Directorate assisted employees performing gender-based analysis, provided tools, and sometimes reviewed GBA. In 2003, the Department replaced its service-based approach to implementing the GBA policy with a capacity-building approach. To that end, it established a network of GBA representatives from the regions and each branch of the Department who are contacts for GBA information and resources but are not responsible for conducting GBA on policies or projects for their region or branch. The Department is currently updating its online GBA training. In 2007, it appointed a Senior Assistant Deputy Minister to be its GBA champion, who acts as an advocate for GBA-related activities within the Department. The champion ensures that policy analysts and all employees are informed of any news and developments concerning GBA-specific activities, and promotes the importance of GBA. INAC is the only department to have performed an evaluation of its GBA practices, informally in 2002 and formally in 2008. INAC is clearly a leader in gender-based analysis. Nevertheless, the evaluations noted many challenges faced by the Department in implementing its GBA strategy.

1.31 Transport Canada did not develop or implement a framework to support the performance of gender-based analysis. Department officials said that they considered their work "gender-neutral," and that GBA was not relevant to the development of their programs and regulations. Officials also mentioned that Transport Canada will be highlighting the requirement for GBA in a departmental guide for processing Treasury Board submissions.

1.32 Veterans Affairs Canada told us that it is sensitive to gender impacts and that their consideration is inherent in the policy development process. Officials in the Department also told us that they perform GBA when it is relevant to do so. However, the Department could not provide evidence that it had developed or

implemented a framework to support the performance of GBA. Without defined roles and responsibilities, tools, methodologies, or training, there is no assurance that the department has the organizational capacity to perform GBA appropriately. Because the Department's policies and programs directly affect Canadian women and men, there is a risk that without a GBA framework, it is overlooking some gender impacts.

Gender-based analyses were completed for four initiatives

1.33 Except for Transport Canada and Veterans Affairs Canada, the departments in our sample had a documented requirement for policy analysts to conduct gender-based analysis. The Department of Finance Canada, Health Canada, Human Resources and Skills Development Canada, and Indian and Northern Affairs Canada have communicated their expectation that GBA be performed.

1.34 We looked at a sample of 68 initiatives to determine whether gender-based analysis had been carried out, and whether the information gathered was used in the policy-development process and therefore could have influenced the development of policy outcomes (Exhibit 1.4). Reviewing the evidence provided by the departments, we considered an analysis to be GBA if

- we found documented research on gender impacts; and
- we determined that the gender impacts had been taken into account in developing policy options—two key factors in performing GBA, according to Status of Women Canada.

1.35 We found evidence that gender-based analysis had been adequately integrated into policy development for only 4 of the 68 initiatives—2 at the Department of Finance Canada and 2 at Indian and Northern Affairs Canada. Departments were able to provide evidence why they had not considered GBA relevant for 8 initiatives—6 at the Department of Finance Canada, 1 at Health Canada, and 1 at Indian and Northern Affairs Canada. Exhibit 1.5 provides an example of how GBA was integrated into policy at INAC.

1.36 Although the departments considered gender impacts for 30 initiatives, we found that the extent of research they performed varied greatly and they were not able to show that they had integrated gender impacts into the various policy options considered. For example, one initiative at Veterans Affairs Canada dealt with caregivers of veterans. The Department had access to research where gender impacts of the initiative were considered, but we saw no evidence as to how it

was considered in the development of policy options. The Department of Finance Canada performed statistical analyses or fiscal simulations to assess the gender impacts of 11 initiatives; however, from the evidence the Department was able to provide, it was not clear how the research and analysis supported the policy options. The Department stated that the policy options with their gender impacts have been presented in briefing notes addressed to the Minister of Finance for use in the discussions with Cabinet colleagues on the Budget. We were, however, not able to verify this because we did not have access to these documents, which were considered by the government as Cabinet confidence of a type that could not be disclosed to us.

1.37 For another 26 initiatives reviewed by the departments, we found no indication that gender impacts were considered. Policy analysts may have determined that GBA was not relevant, but we saw no documentation to support that conclusion. In our opinion, this is certainly not the case for all 26 initiatives. There is a risk that not all relevant gender impacts were considered in the development of some of these initiatives.

Exhibit 1.4 Gender impacts rarely influenced policy

Department	GBA performed and integrated into policy options development	Rationale for not performing GBA documented	Gender impacts considered but not documented in policy options	No evidence of consideration of GBA	Total
Number of initiatives					
Department of Finance Canada	2	6	11	2	21
Department of Justice Canada	0	0	5	5	10
Health Canada	0	1	3	2	6
Human Resources and Skills Development Canada	0	0	6	0	6
Indian and Northern Affairs Canada	2	1	4	2	9
Transport Canada	0	0	0	11	11
Veterans Affairs Canada	0	0	1	4	5
Total	4	8	30	26	68

Source: Review of departmental files by OAG

Exhibit 1.5 How Indian and Northern Affairs Canada developed and integrated GBA into policy options

The *Indian Act* is silent on the issue of matrimonial real property rights, and provincial or territorial laws dealing with the issue cannot be applied on reserves. Bill C-47, the proposed *Family Homes on Reserves and Matrimonial Interests or Rights Act*, was introduced in March 2008, and was debated at second reading and referred to Committee in May 2008. As a result of the dissolution of Parliament on 7 September 2008, Bill C-47 died on the Order Paper before Committee study had begun.

Indian and Northern Affairs Canada analyzed gender impacts and integrated the findings into its policy development process. It obtained research and gender-disaggregated data, including data on marriage and family violence. The Department used the information in describing how matrimonial real property can affect women and men differently on reserves.

The Department worked and consulted with groups representing First Nations and Aboriginal women to identify options for addressing the issues related to matrimonial real property on reserves. It then performed a gender-based analysis to determine the potential impacts of these solutions on women and men. It outlined the bill's potential gender-based impacts, both positive and negative.

Source: Review of various documents provided by INAC

1.38 The 1995 *Federal Plan for Gender Equality* states that GBA is to be conducted where appropriate and that individual departments are responsible for determining which proposals have the potential to affect women and men differently. While some departments are making efforts to improve their GBA practices, we found that most are not meeting the federal government's 1995 commitment to perform GBA for the purpose of identifying gender impacts or considering these in the design of public policies.

1.39 In addition to the fact that there is no government-wide obligation to undertake GBA, a number of other factors may explain the low number of initiatives subjected to a GBA in our sample:

- the policy environment,
- departmental leadership,
- the degree of understanding of GBA,
- the extent of the GBA framework in place in departments,
- the availability of analytical tools and data,
- the level of implementation of GBA practices, and
- the impact of reorganizations in departments and agencies.

Reporting findings of gender-based analysis to Cabinet

Departments provided limited information on gender impacts to Cabinet

1.40 We expected departments that had implemented elements of a framework for performing gender-based analysis (GBA) to make that information available to policy makers by including it in memoranda to Cabinet (MCs), Treasury Board submissions, and Budget briefing documents for the Minister of Finance. To determine whether departments had done this, we reviewed the documents associated with our sample of initiatives. We did not review documents prepared by Veterans Affairs Canada and Transport Canada for Cabinet as they had not implemented any element of a GBA framework. The Department of Finance was also excluded from our review because it did not have to prepare MCs and TB submissions for the sampled initiatives—they were either approved through the Budget process or through related legislation or regulations.

1.41 Some initiatives had more than one memorandum to Cabinet or Treasury Board submission. We reviewed 28 MCs and 21 TB submissions (Exhibit 1.6).

Exhibit 1.6 References to gender impacts in sample departments' documents for Cabinet

Department	Memoranda to Cabinet		Treasury Board submissions	
	Number	Number reporting gender impacts	Number	Number reporting gender impacts
Department of Justice Canada	10	2	3	3
Health Canada	4	2	7	3
Human Resources and Skills Development Canada	6	5	5	3
Indian and Northern Affairs Canada	8	4	6	4
Total	28	13	21	13

Source: Review of departmental files by OAG

Memorandum to Cabinet—The key instrument for providing written policy advice to Cabinet or seeking Cabinet support for a proposed course of action. It plays a pivotal role in Cabinet decision making.

1.42 Memoranda to Cabinet. The new template for preparing a memorandum to Cabinet lists a number of considerations to be reported when appropriate, including federal-provincial relations, environmental impacts, official languages, and gender impacts. We reviewed 28 memoranda and found references to gender impacts in 13, from the Department of Justice Canada, Health Canada, Human Resources and Skills Development Canada, and Indian and Northern Affairs Canada.

1.43 In the other 15 MCs, we found no information on gender impacts to support decision making on policy. There are a number of possible reasons for the absence of this information; the departments did not perform GBA to identify gender impacts because they may have considered them not to be relevant to the particular policy initiative or because data disaggregated by gender was not available. Also, the departments may have analyzed gender impacts but considered them to be irrelevant or not significant enough for reporting in the MC. We found that for 10 of these MCs, gender impacts were considered, but they were not reported in the MC.

Treasury Board submission—A document submitted by a department or agency seeking approval for a proposed initiative. Even after Cabinet approves a policy initiative, Treasury Board approval is still needed to carry out the initiative. A submission includes details of design and delivery, yearly cost of the initiative, and expected results and outcomes. It may include other information, such as impact on gender.

1.44 Treasury Board submissions. The Guide to Preparing Treasury Board Submissions was amended twice in 2007. The new guide now includes a reminder to those drafting a submission to “proceed with a last check to ensure their proposal is GBA compliant, and report their findings in the TB submission.” Information on gender impacts is to be reported when considered relevant.

1.45 We reviewed 21 submissions to Treasury Board and found references to gender impacts in 13, from the Department of Justice Canada, Health Canada, Human Resources and Skills Development Canada, and Indian and Northern Affairs Canada.

1.46 In the other eight submissions, we found no information on gender impacts even though gender impacts were considered for five of these submissions. It may have been absent for the same reasons noted earlier for memoranda to Cabinet. Another reason may be that some of the submissions we reviewed simply sought additional funding for existing programs, and departments may not have considered GBA relevant at that stage. Last, some submissions in our sample predate the summer 2007 amendments to the TB submission guide. The Treasury Board of Canada Secretariat stated that the gender impacts for some of the selected initiatives would have been presented in the précis accompanying the Treasury Board submissions. We were not able to verify this because we did not have access to the précis, which is considered by the government as advice to Treasury Board.

1.47 Budget briefing documents for the Minister of Finance. Briefing documents presented to the Minister of Finance seeking approval for policies or spending initiatives to be included in the Budget must contain a section on gender impacts. This is part of the template used by the Department of Finance Canada officials for preparing briefing documents for the Minister to use in his discussions with Cabinet.

1.48 While Department officials and the Minister of Finance said that gender-based analyses are conducted and taken into account in the decision-making process for the various proposals that are considered in the Budget, we did not obtain access to the information on the gender impacts submitted in the ministerial briefing documents because that document is considered by the government as a Cabinet confidence of a type that cannot be disclosed to us. Therefore, we could not verify whether gender impacts were reported for the consideration of the Minister.

The government's commitment to implementing gender-based analysis is unclear

1.49 We found evidence of efforts to implement frameworks for gender-based analysis in four of the selected departments. However, the level of GBA implementation varies greatly and gender impacts were not regularly reported in the documents for Cabinet we reviewed.

1.50 A number of factors originating at the centre of government may impede the implementation of GBA. As stated earlier, there is no government-wide policy requiring that GBA be performed. Furthermore, officials in departments expressed concern over the leadership of the central agencies in promoting GBA and noted the need for better guidance and clearer communication of expectations from the centre to improve the reporting of gender impacts. The 2007 revised Guide to Preparing Treasury Board Submissions reminded departments and agencies that GBA information is expected to be included in submissions. Although the template for preparing an MC includes gender impacts as a consideration to be reported, when appropriate, the new 2008 Guide to Drafting Memoranda to Cabinet has not clarified how and when gender impacts are to be considered and reported to Cabinet in support of policy proposals.

1.51 Status of Women Canada (SWC) works with federal departments and agencies to help them take into account gender impacts when developing policies and programs. It has encouraged departments to carry out GBA pilot projects and other targeted efforts. Its support has included knowledge transfer, training, assistance, and GBA capacity building. However, SWC is not a central agency and cannot be prescriptive or act alone in promoting GBA—it can only be supportive. This greatly limits its ability to exert influence.

1.52 Over the years, the government has created a number of interdepartmental committees and working groups to support the implementation of GBA and gender equality:

- Central Agencies Working Group on GBA,
- Interdepartmental Committee on GBA,
- Interdepartmental Committee on Gender Equality,
- Steering Committee on GBA,
- Working Group on Gender Equality Indicators, and
- Working Group on the Creation of a Senior Management Awareness Tool on GBA.

1.53 Status of Women Canada is active in all these committees and there may also be participation from central agencies, GBA champions, as well as assistant deputy ministers or representatives from selected departments. In view of the poor GBA practices we found in some departments over the course of this audit, it is unclear how effective these committees have been in supporting action on the government's 1995 commitment to implement gender-based analysis.

1.54 The 1995 commitment called for a five-year phased-in implementation of GBA throughout the federal government. Despite this, we observed considerable variation in our sample departments' GBA frameworks. We also found that the departments rarely perform gender-based analysis and that, based on the evidence provided, documents for Cabinet often omit information on gender impacts. These findings indicate a lack of clarity about the 1995 commitment and a misunderstanding of when it is relevant and appropriate to perform GBA.

1.55 The 2005 final report of the Expert Panel on Accountability Mechanisms for Gender Equality stated, "It would be wrong to immediately undertake a gender-based analysis of every policy and every program." The report recommended, "Apply gender-based analysis wisely and apply it well." One way to facilitate action on the 1995 commitment would be to use a targeted approach like that adopted by the Government of Québec. The disadvantage is that a targeted approach would not achieve full compliance with the 1995 commitment.

1.56 Recommendation. The Treasury Board of Canada Secretariat and the Privy Council Office should provide support to Status of Women Canada to help the government meet its 1995 commitments to gender-based analysis.

Central agencies' response. Agree. The Treasury Board of Canada Secretariat (TBS) and the Privy Council Office (PCO) will continue to work with Status of Women Canada (SWC) and all departments to help the government meet its 1995 GBA commitment.

- In consultation with Status of Women Canada, TBS and PCO will identify departments facing challenges in meeting their gender-based analysis (GBA) commitments with a view to holding informal discussions.
- In support of Status of Women Canada, TBS and PCO will continue to provide guidance to departments on bringing forward policy and program proposals for approval, and challenge departments to consider gender issues, when appropriate. The memorandum to Cabinet (MC) template outlines that departments should include gender issues, when appropriate. In addition to the guidance provided in the Guide to Preparing Treasury Board Submissions, a new desktop tool on the GBA review function is being prepared for use by TBS program analysts.
- Finally, TBS and PCO will continue to provide regular training for analysts to strengthen the ability to better communicate the government's expectations to departments on when and how to perform gender-based analysis.

1.57 Recommendation. To enable the government to meet its commitments to gender-based analysis, Status of Women Canada, in consultation with the Treasury Board of Canada Secretariat and the Privy Council Office, should

- clarify expectations, particularly about when it is appropriate to perform gender-based analysis (GBA) and how to report the findings;
- establish a plan for facilitating GBA implementation; and
- better communicate to departments and agencies their responsibilities.

Status of Women Canada's response. Agree. Status of Women Canada (SWC), in consultation with the Treasury Board Secretariat (TBS) and the Privy Council Office (PCO), will work to fully

implement the 1995 Gender-based Analysis (GBA) policy. SWC will clarify expectations by asking all departments and agencies to

- include a complete assessment of the differential impacts on women and men when developing policies, programs, and legislation that directly affect Canadian women and men;
- provide evidence of what gender impacts were identified at each stage of research, data collection, and development of options;
- on a yearly basis, using SWC's *GBA Performance Measurement Template*, undertake a self-assessment of the effectiveness of using GBA in the development of policies, programs, and legislation, and report their results to SWC; and
- report in their departmental performance reports or similar instruments if differential gender impacts were identified in the development of policy and program outcomes of government initiatives.

Status of Women Canada, in consultation with TBS and PCO, will establish a plan for GBA implementation, by asking all departments and agencies to put in place the following elements of a GBA framework:

- a GBA departmental statement of intent or policy;
- a responsibility centre to monitor the implementation of a GBA framework and the practice of GBA;
- SWC gender-based analysis guides, manuals, or other appropriate information for promoting GBA; and
- mandatory GBA training for all senior departmental officials and analysts and other appropriate staff;
- identification of GBA frameworks in their reports on plans and priorities and reporting on their implementation in their departmental performance reports or similar documents; and
- yearly self-evaluation and reporting to SWC on departmental GBA practices, using SWC's *Organizational Capacity Assessment* tool.

SWC will continue serving as a Centre of Excellence for GBA, including providing technical assistance, and will work with the Canada School of Public Service to help deliver GBA training for those departments and organizations that lack the internal capacity to do so.

SWC, in consultation with TBS and PCO, will better communicate its expectations with respect to GBA to all departments and agencies by

- ensuring that they understand their responsibilities;

- defining expectations, in a revised Status of Women Canada GBA Guide, of when to perform GBA, implement GBA frameworks, and report on findings; and of roles and responsibilities;
- regularly reporting through SWC's public website on the progress made on GBA implementation and practice; and
- continuing to chair the Interdepartmental Committees on Equality for Women and on GBA in order to coordinate and monitor the progress of the implementation of commitments related to GBA.

Challenging federal organizations' consideration of gender impacts

1.58 The Treasury Board of Canada Secretariat (TBS), the Privy Council Office (PCO), and the Department of Finance Canada carry out the federal government's central policy and budgeting functions. All three central agencies are responsible for reviewing a number of considerations in policy and budget documents, including the gender impacts reported by federal organizations.

Central agencies' challenge role is critical

1.59 In its 2006 response to the Second Report of the Standing Committee on the Status of Women, the government stated, "In their role as central agencies, TBS, PCO and the Department of Finance Canada each play a critical 'challenge' role in ensuring departments take into account all relevant factors, including gender considerations, in the development of policies and programs and in proposals being submitted for consideration by Cabinet." As mentioned earlier, departments and agencies are responsible for ensuring that all relevant factors, including gender impacts, have been assessed and integrated into policy analyses. The central agencies do not undertake their own GBAs when reviewing proposals originating with departments or agencies.

1.60 We found that the central agencies have recently introduced frameworks increasing their capacity to perform their challenge role with regard to GBA. In 2005, PCO and the Department of Finance Canada appointed a senior official responsible for GBA. TBS appointed its champion in 2006. According to the 2006 government response, the role of these champions includes "to enhance the organization's horizontal policy coordination and challenge functions in relation to GBA." The central agencies provide GBA training to policy analysts whose role is to challenge department or agency spending initiatives or policy proposals.

1.61 Roles and responsibilities. The Treasury Board of Canada Secretariat gives advice and support to the Treasury Board as it allocates funds and oversees the financial management of departments and agencies. The Secretariat plays a key role in managing government expenditures after Cabinet approves new policies or programs.

1.62 The Privy Council Office is responsible for ensuring that policy proposals are in line with the government’s priorities. PCO plays a critical challenge role in the government’s policy approval process—ensuring that proposals developed by federal organizations have taken into account all relevant factors, including those related to gender equality.

1.63 In addition to developing and implementing policies, the Department of Finance Canada is responsible for ensuring the integrity of the government’s finances. When appropriate, and depending on the nature of a measure, the Department will challenge the analyses of the sponsoring organization and review the proposal for fiscal, economic, federal-provincial, regional, and gender impacts. Before a proposal goes to Cabinet for its consideration, the Department works with the other two central agencies to ensure that all relevant factors are taken into account, including gender impacts.

1.64 Champions of gender-based analysis. The role of the GBA champion at the Treasury Board of Canada Secretariat is to ensure that policy analysts and senior management understand and fulfill their GBA responsibilities, and that the agency promotes and offers training to its analysts. At the Privy Council Office, the GBA champion is responsible for helping ensure that GBA is integrated into the policy process and challenge role. The champion also works to encourage GBA by coordinating annual training for PCO policy analysts. At the Department of Finance Canada, the GBA champion promotes gender-based analysis, facilitates its conduct, and raises its profile; for instance, the role of champion is to help ensure that employees have access to GBA training and examples, and to make presentations on the importance of GBA in the Department.

1.65 Approach in reviewing proposals. When Privy Council Office analysts review a memorandum to Cabinet (MC), their role is to challenge the originating department on the completeness of the proposed policy initiatives, including the analysis of gender impacts when it is appropriate. Analysts do not perform gender-based analysis, nor do they challenge every policy proposal in terms of GBA. The intent is to ensure that all relevant issues are considered in policy development. Analysts are to ensure there is evidence that GBA has

been conducted when appropriate. The MC needs to provide evidence that the policy, program, or proposal supports the full participation and equitable treatment of women and men, and that there is no discrimination against women or men in the outcome.

1.66 Treasury Board analysts examining TB submissions are to include considerations of gender-based analysis (if relevant) as part of their challenge role. In assessing a submission's quality, for example, TBS analysts are supposed to examine whether the originating department has considered questions concerning gender and diversity throughout the analysis, clearly presented the gender and diversity implications, made recommendations that support gender equality, and provided evidence of how gender impacts are in line with other government priorities. Senior management is responsible for ensuring that analysts perform their GBA challenge role properly.

1.67 When relevant, the Department of Finance Canada analysts, as part of their challenge role, are supposed to integrate questions concerning gender throughout their review of the proposal; ensure that gender implications are presented clearly; and ensure that gender implications can be substantiated when appropriate with relevant, reliable, and gender-disaggregated data.

There is no written evidence that central agencies challenged gender-based analysis

1.68 The three central agencies were not able to provide evidence that their analysts had reviewed and challenged departments' consideration of gender impacts. During interviews, analysts at the Treasury Board of Canada Secretariat told us that 10 of the 21 Treasury Board submissions we reviewed were challenged, but TBS could not provide any written evidence of the GBA challenge it had exercised for our sample of submissions, except for one document concerning one initiative. TBS maintains that the challenge takes place only when relevant and would be performed orally, and that it is unreasonable to expect every discussion with departments to be documented. According to TBS, the challenge might be documented in the précis accompanying the Treasury Board submission when appropriate, but as mentioned before, we were not able to verify this because it is a Cabinet confidence of a type that the government has determined we are not entitled to. PCO was also unable to provide written evidence of the GBA challenge they had exercised for initiatives in our sample and indicated that documentation is not a necessary step in the GBA challenge role. The Department of Finance Canada was able to provide written evidence of the GBA challenge it had exercised for

only one initiative, which was not part of our sample. The Department explained that the information exchanged with sponsoring departments when developing budgets was too sensitive for the level of security of the computer systems. As a result, budget discussions often happened orally. Given the important challenge role of the central agencies in ensuring that departments take into account all relevant factors, including gender impacts, in the development of policies, programs, and proposals submitted to Cabinet for consideration, we believe that the central agencies need to document better their GBA challenges.

1.69 Recommendation. The Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada should document the challenge function they exercise when they review spending initiatives and policy proposals submitted by departments and agencies for Cabinet consideration.

The central agencies' response. Disagree. It is the primary responsibility of sponsoring departments to conduct appropriate analysis in respect of new policies and programs, including gender impacts.

The challenge function lies at the core of the mandate of the three central agencies. The Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada systematically review departmental submissions using a variety of policies and lenses (for example, economic, fiscal, environmental, and gender). The extent of the review depends on the nature of the proposal.

Because of the nature of the challenge function, and in particular the confidentiality surrounding policy and program development, and the potential for time sensitivity, the challenge function does not lend itself easily to documentation. Central agencies generally perform their challenge function informally and orally, as part of the day-to-day work with departments on a wide variety of policies, programs, and related initiatives, the results of which are documented in advice to ministers where appropriate.

In addition to being impractical, instituting a formalized, documented challenge function by central agencies would not inherently improve the nature of the challenge function, while it would expend considerable resources. The current challenge function ensures that decision makers have access to the best and most relevant information possible for decision making.

Consequently, central agencies cannot agree to a recommendation that would be impractical to implement and would divert resources away from their core function.

Central agencies provided some training for staff on challenging gender-based analysis

1.70 There is a risk that central agencies might not perform an adequate challenge role if their policy analysts and senior management lack sufficient knowledge about gender-based analysis. When we completed this audit, 50 analysts and managers at the Treasury Board of Canada Secretariat out of 190 in four program sectors, and 9 analysts out of 56 at the Department of Finance Canada had received training in carrying out their GBA challenge role. At the Privy Council Office, 22 analysts out of 98 had recently received training.

1.71 The central agencies have training initiatives for their analysts, but these were introduced 10 years after the 1995 commitments. The Treasury Board of Canada Secretariat provided GBA training to program and policy analysts in September 2006, March 2007, and February 2008. The Privy Council Office has offered three GBA training sessions to analysts since 2006, with the most recent one taking place during our audit. The Department of Finance Canada held GBA training sessions in January and October 2008.

1.72 The central agencies have improved the training offered to their analysts and senior management on considering gender impacts when conducting reviews of spending initiatives, policy proposals, and legislation. We believe that sustained training efforts would underscore the importance of reviewing gender impacts as part of the central agencies' challenge role.

Evaluating gender-based analysis practices

Only Indian and Northern Affairs Canada has evaluated its gender-based analysis practices

1.73 In our audit we found that some federal organizations have used a variety of mechanisms for integrating gender-based analysis, while others have ignored gender-based analysis (GBA). Neither the central agencies nor Status of Women Canada (SWC) is responsible for assessing the GBA capacity of federal organizations or evaluating the effectiveness of their procedures for conducting GBA.

1.74 Status of Women Canada has identified evaluation as an important component of a sound GBA framework. It encourages departments and agencies to create tools for assessing how they apply

gender-based analysis and how well they use it in the development of policies, programs, or legislation. As mentioned earlier, Indian and Northern Affairs Canada (INAC) is the only department to have evaluated its implementation of GBA practices. The INAC evaluation noted the lack of accountability mechanisms and capacity for comprehensive, sustained implementation of GBA in all of the department's work. The evaluation states, "The challenges faced for improving the effective application of GBA are not unique to INAC within the context of GBA. For one, the government's emphasis on this issue indicates recognition that the issue needs to be addressed across government."

There has been no government-wide evaluation of gender-based analysis practices

1.75 Only by assessing how gender-based analysis is being implemented across departments will the government be able to evaluate how successful it has been in meeting its GBA commitments. In 1995, the federal government committed to evaluate the effectiveness of the GBA process. In 2005, an evaluation was undertaken of three components, including GBA, of the *Agenda for Gender Equality* and the associated directorates within Status of Women Canada. While the evaluation surveyed respondents' views on SWC-led activities and highlighted challenges faced by respondents in their own ability to meet their goals pertaining to GBA, it did not target directly the effectiveness of GBA processes. A government-wide evaluation of GBA practices in departments and in central agencies could help increase accountability for applying GBA within government. The Government of Québec recently performed such an evaluation.

1.76 The Treasury Board has introduced new accountability mechanisms, including the **Management Accountability Framework (MAF)** and the **Management, Resources and Results Structure Policy (MRRS)**.

1.77 In 2006, the government said it would assess departmental use of gender-based analysis as part of the MAF process. The quality, adequacy, and soundness of analyses found in Treasury Board submissions is one indicator assessed as part of the MAF mechanism. One criterion used to assess this indicator is the appropriate consideration given to a range of issues such as gender-based analysis. When preparing their assessments, TBS analysts are to determine if TB submissions generally include the relevant subsections and detail described in the Guide to Preparing Treasury Board Submissions. We reviewed the content of the 2007–08 MAF report of the selected departments and saw only one assessment that referred to the

The **Management Accountability Framework** sets out the Treasury Board's expectations of senior public service managers for good public service management. One of the MAF elements relates to the quality, adequacy, and soundness of analysis in Treasury Board submissions.

According to the Treasury Board of Canada Secretariat, the **Management, Resources and Results Structure** provides a common, government-wide approach to the collection, management, and public reporting of financial and non-financial information.

consideration of GBA in Treasury Board submissions. Although we examined the MAF reports, we did not review the quality of the assessment performed by the analysts nor audit the MAF process.

1.78 In 2005 and in 2006, the government also stated that MRRS policy could be used to assess whether federal programs achieve gender equality and report better gender-specific outcomes. Despite government commitments to assess whether programs are supporting gender equality, we saw no indication that GBA had been integrated in MRRS policy.

1.79 Recommendation. To measure progress on fulfilling the government's 1995 commitment to implementing gender-based analysis (GBA), Status of Women Canada, with the support of the Treasury Board of Canada Secretariat and of the Privy Council Office, should assess the implementation of gender-based analysis across the federal government and the effectiveness of GBA practices.

Status of Women Canada's response. Agree. To measure progress on fulfilling the government's 1995 commitment, Status of Women Canada (SWC), with the support of the Treasury Board of Canada Secretariat and the Privy Council Office, will assess the performance of gender-based analysis (GBA) across the federal government and the effectiveness of GBA practices on a yearly basis by

- collecting results from departmental self-assessments of GBA practices and reporting these through the SWC Management Accountability Framework (MAF), and departmental performance report (DPR);
- collecting results from departmental self-assessments on the implementation of departmental GBA frameworks and reporting these through the SWC MAF and DPR; and
- reviewing departmental memoranda to Cabinet, TB submissions, and other key decision-making documents to determine concretely whether gender differences were taken into consideration in the design or modification of policies, programs, or legislation.

Status of Women Canada is prepared to assume an enhanced role as described above; however, its success will depend on the support given by the central agencies and additional resources sought.

Central agencies' response. Agree. As a result of the 2005 Policy on Management, Resources and Results Structure (MRRS), the Treasury Board of Canada Secretariat (TBS) now has a complete inventory of all Government of Canada programs, and most of these programs are

supported by performance measurement frameworks. This inventory of programs could be searched to identify programs by subject, including those explicitly identifying gender issues.

Assessment of departments' performance against gender-based analysis (GBA) commitments made by the federal government is not the responsibility of TBS. However, through the Management Accountability Framework, TBS assesses departments' capacity to develop TB submissions that properly address legal and government priorities, commitments, and obligations. The GBA component is assessed through Area of Management 5 (AOM 5)—Quality of TB Submissions. It is the analysis undertaken by departments that is relevant for monitoring and reporting on progress.

The Privy Council Office has developed a template that outlines how GBA should, when appropriate, be considered throughout each step of the policy and program development process. This template is shared with line departments and serves as guidance.

Conclusion

1.80 At the time of the United Nations Fourth World Conference on Women in 1995, the federal government undertook to implement gender-based analysis (GBA) throughout federal departments and agencies. It has made numerous further commitments since then.

1.81 The departments we examined are making efforts to improve their GBA practices. However, most are not applying GBA to identify gender impacts for use in the design of public policies, as the government undertook to do in 1995.

1.82 Overall, we found that four of the seven departments selected had taken measures to implement GBA. We found that the capacity to perform GBA varies greatly among the departments in our sample. For example, the Department of Finance Canada, Human Resources and Skills Development Canada, Indian and Northern Affairs Canada, and to a certain extent Health Canada, have put in place elements of a GBA framework. Transport Canada and Veterans Affairs Canada could not provide evidence they had developed a GBA framework. The Department of Justice Canada was one of the first federal organizations to establish GBA practices but has abandoned the practice of GBA training by integrating gender impacts in its legislative reviews.

1.83 We found evidence that gender-based analysis had been performed in the case of only 4 initiatives—2 at Indian and Northern Affairs Canada, and 2 at the Department of Finance Canada. For these initiatives, we found evidence that research on gender impacts was conducted and that the results were integrated in the development of policy options. For 8 initiatives, the departments provided documented evidence on the rationale for not performing gender-based analyses. For 30 other initiatives, we found evidence that research had been performed to assess gender impacts, but the extent of documented research varied greatly and we could not determine how that information was taken into account in the development of policy options. No evidence of consideration of gender impacts was provided for 26 other initiatives. Some documents were not provided by the Department of Finance Canada for reasons of Cabinet confidence, as previously described.

1.84 Departments provide limited information to Cabinet and Treasury Board on the gender impacts of the proposed policy initiatives. We found that gender impacts were reported in 13 out of the 28 memoranda to Cabinet and in 13 of the 21 Treasury Board submissions we reviewed.

1.85 We found that each of the central agencies had appointed a senior official to be its GBA champion, and that some analysts received GBA training. Because of lack of documentation and again of our inability to access certain documents covered by Cabinet confidence, the central agencies could not provide evidence that they had reviewed and challenged departments' consideration of gender impacts when relevant.

1.86 Departments and agencies lack clear guidance about how they are to apply gender-based analysis. The Treasury Board of Canada Secretariat and the Privy Council Office thus far have not clearly communicated their expectations. We believe the revised Guide to Preparing Treasury Board Submissions is a step toward remedying these deficiencies. Assessments of how GBA is being implemented will enable the government to determine its success in meeting its commitments.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objective

The objective of this audit was to determine whether the selected departments can provide evidence that they are conducting, and the central agencies can provide evidence that they are reviewing, gender-based analyses (GBA) to adequately support decision making on policy and program spending initiatives.

Scope and approach

Our audit reviewed federal commitments to implement GBA. We examined the roles and responsibilities of the central agencies, Status of Women Canada, and selected departments in implementing GBA across the government.

The audit focused on whether selected departments and central agencies had established a framework to support the performance of gender-based analysis, and whether the results of analyses were reported in Treasury Board submissions and memoranda to Cabinet. We also assessed whether the central agencies challenged the consideration of gender impacts by federal organizations.

The audit did not include the verification of the data and research on gender impacts or challenge the conclusions of analyses. It did not assess how GBA influences policy decisions. The results of the audit cannot be extrapolated to other departments and agencies.

The federal organizations included in the audit were

- the Treasury Board of Canada Secretariat,
- the Privy Council Office,
- the Department of Finance Canada,
- Status of Women Canada,
- the Department of Justice Canada,
- Health Canada,
- Human Resources and Skills Development Canada,
- Indian and Northern Affairs Canada,
- Transport Canada, and
- Veterans Affairs Canada.

Central agencies were selected for their role in the government's decision-making process. Status of Women Canada was included for its role in training and supporting central agencies and departments on GBA practices. The Department of Finance Canada was included as both a central agency and as a department responsible for performing GBA.

The sampled initiatives were selected from those after November 2006 because an order-in-council redefined the Office of the Auditor General's access to Cabinet confidences as of that date. We expected that this would enable us to review the challenge performed by the central agencies.

Our approach involved reviewing documents and analyses provided by the departments and central agencies, as well as Treasury Board submissions, records of decisions, memoranda to Cabinet, and related reports. We also interviewed policy analysts and officials in the selected departments, as well as analysts and senior officials in the three central agencies.

We reviewed literature on the subject and interviewed officials of the Government of Québec to determine how it had implemented GBA.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
The selected departments can demonstrate that they have developed a framework for implementing GBA, which could include policies, procedures, roles and responsibilities, the appointment of a champion, tools and methodologies, training, and monitoring and evaluation.	<ul style="list-style-type: none"> • Status of Women Canada, <i>Setting the Stage for the Next Century: The Federal Plan for Gender Equality</i>, August 1995, bullets 25–31 • 2006 Government Response to the Second Report of the Standing Committee on the Status of Women, paragraph 12 • 1995 United Nations Fourth World Conference on Women, Beijing, <i>Platform for Action</i>, paragraphs 204(d), 208(a), and 208(g) • Gender-Based Analysis: Building Blocks for Success, Report of the House of Commons Standing Committee on the Status of Women, April 2005, p. 35
The selected departments can demonstrate that they have each implemented their GBA framework.	<ul style="list-style-type: none"> • The Federal Plan for Gender Equality, bullets 24 and 34 • 1995 Beijing Platform for Action, paragraph 207(a) • 2006 Government Response to the Second Report of the Standing Committee on the Status of Women, paragraphs 3 and 11 • Gender-Based Analysis: Building Blocks for Success, Report of the House of Commons Standing Committee on the Status of Women, April 2005, p. 31 • Status of Women Canada, <i>Organizational Capacity Assessment: GBA Building Blocks, Elements and Players</i> • Status of Women Canada, <i>Gender-Based Analysis (GBA) Policy Training—Trainer's Manual</i>

Criteria	Sources
<p>The selected departments can demonstrate that they provided guidance for policy makers on legislation, policy, and program initiatives by including GBA information, when considered relevant, in budget proposals, memoranda to Cabinet, and Treasury Board submissions.</p>	<ul style="list-style-type: none"> • The Federal Plan for Gender Equality, bullets 24 and 34 • Treasury Board of Canada Secretariat, A Guide to Preparing Treasury Board Submissions, 2007, p. 19 • Privy Council Office, Memoranda to Cabinet: A Drafter's Guide, 2008 • Department of Finance Canada, Budget Proposal Template, March 2008 • 2006 Government Response to the Second Report of the Standing Committee on the Status of Women, paragraphs 3 and 11
<p>The central agencies can demonstrate that they have each put in place a framework for exercising a challenge function with regard to GBA, which could include policies, procedures, roles and responsibilities, the appointment of a champion, tools and methodologies, training, and monitoring and evaluation.</p>	<ul style="list-style-type: none"> • The Federal Plan for Gender Equality, bullets 25–31 • 2006 Government Response to the Second Report of the Standing Committee on the Status of Women, paragraphs 4 and 12 • 1995 Beijing Platform for Action, paragraphs 204(d), 208(a), and 208(g) • Gender-Based Analysis: Building Blocks for Success, Report of the House of Commons Standing Committee on the Status of Women, April 2005, p. 35 • 39th Parliament, 2nd Session, Standing Committee on the Status of Women, Evidence, 4 and 11 March 2008
<p>The central agencies can demonstrate that they ensure gender impacts have been taken into account before policy and spending recommendations are submitted to Cabinet or the Treasury Board for approval.</p>	<ul style="list-style-type: none"> • 2006 Government Response to the Second Report of the Standing Committee on the Status of Women, paragraphs 3 and 7 • Treasury Board of Canada Secretariat, GBA Checklist Tool • 39th Parliament, 2nd Session, Standing Committee on the Status of Women, Evidence, 4 March 2008 • Towards Gender Responsive Budgeting: Rising to the Challenge of Achieving Gender Equality, Report of the Standing Committee on the Status of Women, June 2008, p. 31

Audit work completed

Audit work for this chapter was substantially completed on 31 October 2008.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 1. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p>Reporting findings of gender-based analysis to Cabinet</p> <p>1.56 The Treasury Board of Canada Secretariat and the Privy Council Office should provide support to Status of Women Canada to help the government meet its 1995 commitments to gender-based analysis. (1.49–1.55)</p>	<p>Central agencies' response. Agree. The Treasury Board of Canada Secretariat (TBS) and the Privy Council Office (PCO) will continue to work with Status of Women Canada (SWC) and all departments to help the government meet its 1995 GBA commitment.</p> <ul style="list-style-type: none"> • In consultation with Status of Women Canada, TBS and PCO will identify departments facing challenges in meeting their gender-based analysis (GBA) commitments with a view to holding informal discussions. • In support of Status of Women Canada, TBS and PCO will continue to provide guidance to departments on bringing forward policy and program proposals for approval, and challenge departments to consider gender issues, when appropriate. The memorandum to Cabinet (MC) template outlines that departments should include gender issues, when appropriate. In addition to the guidance provided in the Guide to Preparing Treasury Board Submissions, a new desktop tool on the GBA review function is being prepared for use by TBS program analysts. • Finally, TBS and PCO will continue to provide regular training for analysts to strengthen the ability to better communicate the government's expectations to departments on when and how to perform gender-based analysis.

Recommendation

1.57 To enable the government to meet its commitments to gender-based analysis, Status of Women Canada, in consultation with the Treasury Board of Canada Secretariat and the Privy Council Office, should

- clarify expectations, particularly about when it is appropriate to perform gender-based analysis (GBA) and how to report the findings;
 - establish a plan for facilitating GBA implementation; and
 - better communicate to departments and agencies their responsibilities.
- (1.49–1.55)

Response

Status of Women Canada's response. Agree. Status of Women Canada (SWC), in consultation with the Treasury Board Secretariat (TBS) and the Privy Council Office (PCO), will work to fully implement the 1995 GBA policy. SWC will clarify expectations by asking all departments and agencies to

- include a complete assessment of the differential impacts on women and men when developing policies, programs, and legislation that directly affect Canadian women and men;
- provide evidence of what gender impacts were identified at each stage of research, data collection, and development of options;
- on a yearly basis, using SWC's *GBA Performance Measurement Template*, undertake a self-assessment of the effectiveness of using GBA in the development of policies, programs, and legislation, and report their results to SWC; and
- report in their departmental performance reports or similar instruments if differential gender impacts were identified in the development of policy and program outcomes of government initiatives.

Status of Women Canada, in consultation with TBS and PCO, will establish a plan for GBA implementation, by asking all departments and agencies to put in place the following elements of a GBA framework:

- a GBA departmental statement of intent or policy;
- a responsibility centre to monitor the implementation of a GBA framework and the practice of GBA;
- SWC gender-based analysis guides, manuals, or other appropriate information for promoting GBA; and
- mandatory GBA training for all senior departmental officials and analysts and other appropriate staff;
- identification of GBA frameworks in their reports on plans and priorities and reporting on their implementation in their departmental performance reports or similar documents; and
- yearly self-evaluation and reporting to SWC on departmental GBA practices, using SWC's *Organizational Capacity Assessment* tool.

Recommendation	Response
	<p>SWC will continue serving as a Centre of Excellence for GBA, including providing technical assistance, and will work with the Canada School of Public Service to help deliver GBA training for those departments and organizations that lack the internal capacity to do so.</p> <p>SWC, in consultation with TBS and PCO, will better communicate its expectations with respect to GBA to all departments and agencies by</p> <ul style="list-style-type: none"> • ensuring that they understand their responsibilities; • defining expectations, in a revised Status of Women Canada GBA Guide, of when to perform GBA, implement GBA frameworks, and report on findings; and of roles and responsibilities; • regularly reporting through SWC's public website on the progress made on GBA implementation and practice; and • continuing to chair the Interdepartmental Committees on Equality for Women and on GBA in order to coordinate and monitor the progress of the implementation of commitments related to GBA.

Challenging federal organizations' consideration of gender impacts

1.69 The Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada should document the challenge function they exercise when they review spending initiatives and policy proposals submitted by departments and agencies for Cabinet consideration. (1.58–1.68)

The central agencies' response. Disagree. It is the primary responsibility of sponsoring departments to conduct appropriate analysis in respect of new policies and programs, including gender impacts.

The challenge function lies at the core of the mandate of the three central agencies. The Treasury Board of Canada Secretariat, the Privy Council Office, and the Department of Finance Canada systematically review departmental submissions using a variety of policies and lenses (for example, economic, fiscal, environmental, and gender). The extent of the review depends on the nature of the proposal.

Because of the nature of the challenge function, and in particular the confidentiality surrounding policy and program development, and the potential for time sensitivity, the challenge function does not lend itself easily to documentation. Central agencies generally perform their challenge function informally and orally, as part of the day-to-day work with

Recommendation**Response**

departments on a wide variety of policies, programs, and related initiatives, the results of which are documented in advice to ministers where appropriate.

In addition to being impractical, instituting a formalized, documented challenge function by central agencies would not inherently improve the nature of the challenge function, while it would expend considerable resources. The current challenge function ensures that decision makers have access to the best and most relevant information possible for decision making.

Consequently, central agencies cannot agree to a recommendation that would be impractical to implement and would divert resources away from their core function.

Evaluating gender-based analysis practices

1.79 To measure progress on fulfilling the government's 1995 commitment to implementing gender-based analysis (GBA), Status of Women Canada, with the support of the Treasury Board of Canada Secretariat and of the Privy Council Office, should assess the implementation of gender-based analysis across the federal government and the effectiveness of GBA practices. (1.73–1.78)

Status of Women Canada's response. Agree. To measure progress on fulfilling the government's 1995 commitment, Status of Women Canada (SWC), with the support of the Treasury Board of Canada Secretariat and the Privy Council Office, will assess the performance of gender-based analysis (GBA) across the federal government and the effectiveness of GBA practices on a yearly basis by

- collecting results from departmental self-assessments of GBA practices and reporting these through the SWC Management Accountability Framework (MAF), and departmental performance report (DPR);
- collecting results from departmental self-assessments on the implementation of departmental GBA frameworks and reporting these through the SWC MAF and DPR; and
- reviewing departmental memoranda to Cabinet, TB submissions, and other key decision-making documents to determine concretely whether gender differences were taken into consideration in the design or modification of policies, programs, or legislation.

Status of Women Canada is prepared to assume an enhanced role as described above; however, its success will depend on the support given by the central agencies and additional resources sought.

Recommendation**Response**

Central agencies' response. Agree. As a result of the 2005 Policy on Management, Resources and Results Structure (MRRS), the Treasury Board of Canada Secretariat (TBS) now has a complete inventory of all Government of Canada programs, and most of these programs are supported by performance measurement frameworks. This inventory of programs could be searched to identify programs by subject, including those explicitly identifying gender issues.

Assessment of departments' performance against gender-based analysis (GBA) commitments made by the federal government is not the responsibility of TBS. However, through the Management Accountability Framework, TBS assesses departments' capacity to develop TB submissions that properly address legal and government priorities, commitments, and obligations. The GBA component is assessed through Area of Management 5 (AOM 5)—Quality of TB Submissions. It is the analysis undertaken by departments that is relevant for monitoring and reporting on progress.

The Privy Council Office has developed a template that outlines how GBA should, when appropriate, be considered throughout each step of the policy and program development process. This template is shared with line departments and serves as guidance.

Report of the Auditor General of Canada to the House of Commons—Spring 2009

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Report of the
**Auditor General
of Canada**
to the House of Commons

Chapter 2
Intellectual Property



Office of the Auditor General of Canada



2009



Report of the
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of Canada**
to the House of Commons

SPRING

Chapter 2
Intellectual Property



Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

2

Intellectual Property

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Intellectual Property

Main Points

What we examined

Intellectual property includes rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields. This includes all intellectual creation legally protected through patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets and confidential information. The federal government generates intellectual property as a component of activities carried out under federal contracts to procure goods and services. Intellectual property is also generated by the federal government through its own science and research activities.

Our audit looked at how intellectual property is managed in three federal science-based organizations—the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada. We examined to what extent they comply with federal policy in managing intellectual property that arises in the course of contracted activities and how adequately they manage intellectual property generated by their own employees.

Our audit also looked at the roles of Industry Canada and the Treasury Board of Canada Secretariat in monitoring the application of the federal policy governing intellectual property that arises under Crown procurement contracts. In addition, we looked at the roles of the Treasury Board of Canada Secretariat and the Canada Public Service Agency in monitoring compliance with the Award Plan for Inventors and Innovators Policy.

Why it's important

Intellectual property is a valuable asset that can be bought, sold, licensed, lost, or stolen, and it should therefore be managed effectively. This includes knowing how and when to protect intellectual property. The National Research Council Canada, for example—by far the federal government's largest producer of inventions—spends more than \$1.6 million a year to protect the patents it holds, which produced \$5 million in revenue in the 2006–07 fiscal year. In calendar year 2006, billions of dollars in federal contracts were reported to contain some element of intellectual property.

Managed well, intellectual property can lead to economic and social benefits and contribute to Canada's innovation. Whether used for policy development, decision making, advancement of knowledge, or national security, intellectual property is a strategic asset that can help the federal government better serve the interests of Canadians. For example, the National Research Council Canada developed a vaccine for meningococcal disease that is currently being marketed in Canada and internationally. If intellectual property is managed poorly, however, the government could lose the ability to manage its intellectual property for the benefit of Canada. This includes losing the social benefits, such as improved health care, and the economic benefits, such as having more profitable companies.

The 2007 federal Science and Technology Strategy, Mobilizing Science and Technology to Canada's Advantage, recognizes that intellectual property is a critical component of the overall innovation system. The creation, development, and protection of intellectual property are critical early steps in the innovation process. Ongoing monitoring of the federal intellectual property regime is important to ensure that the intellectual property arising from federal investments in research translates into value for Canadians.

What we found

- Nearly 20 years after the federal government decentralized the management of intellectual property to federal entities, the mixture of legislation and policies governing it has resulted in a variety of management practices, some of which are inadequate. Neither Health Canada nor Fisheries and Oceans Canada has a department-wide policy, and both lack adequate mechanisms and expertise to consistently identify and disclose intellectual property generated by its employees. Despite their significant expenditures on science and technology, including millions of dollars in research and development, and the number of scientists and researchers they employ, there is very little disclosure of inventions developed by public servants in these two departments. The National Research Council Canada, however, has an entity-wide policy and adequately identifies its inventions by involving and training its researchers and officers at its institutes.
- The federal government is not in a position to know whether the objective of the eight-year-old Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts is being met. It does not know how much intellectual property is generated externally in the course of contracted work. None of the entities we audited adequately identifies and reports whether work performed under contract is likely to generate intellectual property. The three science-based organizations we examined have not assessed whether the

Policy has been implemented and applied within their respective organizations. Although the Policy states that intellectual property should rest with the Crown only in exceptional cases, ownership was retained by the Crown in over half the contracts that we reviewed at Health Canada and Fisheries and Oceans Canada, often without clear justification. Industry Canada and the Treasury Board of Canada Secretariat have not adequately fulfilled their obligations to monitor the application of the Policy, with a focus on cases where exceptions were involved, and to evaluate the Policy.

- Since the introduction of the Award Plan for Inventors and Innovators Policy in 1993, the effectiveness of departmental and agency award plans and of the Policy itself have not been assessed. With the exception of one award in 1994, none of the entities we audited has distributed financial awards for the government use of inventions. With no assessment of the award plans and of the Policy itself, the federal government does not know if it has the appropriate financial incentives in place to encourage the commercialization of internally generated intellectual property or the use of inventions within the government.

The entities and the Secretariat have responded. The entities and the Secretariat agree with all of our recommendations. Their detailed responses follow each recommendation throughout the chapter.

Introduction

The importance of managing intellectual property

2.1 Intellectual property includes rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields including all intellectual creation legally protected through patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets and confidential information. It is a valuable asset that can be bought, sold, licensed, lost, or stolen. Intellectual property can yield economic, social, and environmental benefits, and therefore warrants effective management, including appropriate protection. The tools for protecting intellectual property can take different forms. For example, inventions may be protected by patent, while publications and computer software may be protected by copyright.

2.2 Effective management of intellectual property assets allows an organization to improve its operational and financial performance, make better use of its resources, and identify opportunities for transferring and commercializing intellectual property. Inadequate management can result in failure to identify intellectual property and maximize its potential benefits, as well as in duplication in procurement activities. It could also give rise to a range of risks, including legal liabilities and failure to meet organizational objectives when licensing intellectual property. For example, failure to secure the ownership of intellectual property before disclosing that property publicly could lead to lawsuits for copyright infringement by the Crown or its agents. Resolution of these lawsuits is often costly for the Crown. Similarly, before assigning rights of its own intellectual property to a third party, the Crown needs to consider whether it will continue to need to use that property and address that need in an assignment agreement. It could otherwise be in the unfortunate situation of having to pay to procure the rights to use the intellectual property that it had developed.

2.3 Whether the intellectual property is used for policy formulation, decision making, advancement of knowledge, or commercial exploitation, it is a corporate asset that allows organizations to better serve their stakeholders. Within the federal government, the National Research Council Canada is the largest generator of inventions. Health Canada and Fisheries and Oceans Canada generate smaller amounts of intellectual property internally. However, with respect to externally generated intellectual property, in the 2006 calendar year, Health Canada had \$36 million and Fisheries and Oceans Canada had

almost \$26 million in contracts reported to contain some element of intellectual property.

2.4 The National Research Council Canada recognizes that intellectual property is a corporate asset that needs to be managed and exploited. The effective exploitation of intellectual property and its transfer to users, who commercialize it for the benefit of Canadian society, are an integral part of the National Research Council Canada's mandate. Exhibit 2.1 illustrates examples of the benefits derived from the successful management of intellectual property at two institutes within the National Research Council Canada.

Exhibit 2.1 Intellectual property can create economic and socio-economic benefits

The National Research Council Canada supports Canadian industry. For example, Novadaq Technologies, a spin-off of the National Research Council Canada Institute for Biodiagnostics, has developed a Digital Laser Imaging System for use in cardiac surgery. The National Research Council Canada protected the intellectual property, licensed it, and helped raise awareness in the financial community to get capital to start Novadaq Technologies.

The National Research Council Canada also plays a role in promoting the socio-economic interests of Canadians. For example, its Institute for Biological Sciences developed a vaccine for Group C meningococcal disease that is currently being marketed in Canada and internationally. According to the National Research Council Canada, well over \$25 million has been paid to the organization through its licensing agreement. More than 10 technologies developed by the National Research Council Canada formed the basis for the licence of the vaccine to a health care corporation. The intellectual property has been commercialized.

Source: National Research Council Canada

2.5 Health Canada, which conducts research and development in support of its policy and regulatory mandate, depends on a foundation of science to help Canadians maintain and improve their health. Scientific and technical knowledge and expertise contribute to decisions about health standards, health policy, regulations, and health programs. On occasion, the Department develops technologies with commercial implications for the private sector. For example, Health Canada has developed a new patented technology that serves as an alternative to the artificial stomach to measure the dissolution rate of tablets and pills. Drug dissolution testing is conducted to establish and monitor the safety, efficacy, and quality of pharmaceutical products.

2.6 Fisheries and Oceans Canada also conducts research and development in support of its policy and regulatory mandate. Canadians rely on Fisheries and Oceans Canada to conduct scientific research to monitor and promote the health of fish stocks and the

marine environment. An example of an invention that Fisheries and Oceans Canada has developed is an underwater digital sound recorder system. Its initial application was to record whale sounds, but it can also be used for any application that requires continuous underwater sound recording.

2.7 The federal government recognizes that intellectual property is a valuable asset and has made several commitments related to intellectual property in its 1996 and 2007 Science and Technology strategies. Managing and exploiting intellectual property are becoming more important to ensuring Canada's competitiveness. As the Canadian economy becomes increasingly knowledge-based, intellectual property assets can play a significant role in fostering a competitive and dynamic business environment.

The Government of Canada's intellectual property

2.8 The federal government creates intellectual property in two distinct ways: by contractors during contracting activities and by federal government employees during the course of their work.

2.9 Intellectual property resulting from Crown procurement contracts. The Government of Canada enters into Crown procurement contracts in order to receive and use deliverables for government activities, including any intellectual property expected to result from the contract. In this chapter, we refer to this as externally generated intellectual property. One of the socio-economic objectives pursued through Crown procurement contracts is the commercialization of intellectual property by the private sector to create jobs and generate economic growth. In the 2006 calendar year, billions of dollars in Crown procurement contracts were reported to contain some element of intellectual property.

2.10 Intellectual property generated by public servants. In this chapter, we refer to intellectual property that is created by public servants during the course of their work, and which is owned by the Crown, as internally generated intellectual property. While it is difficult to estimate the total value of intellectual property generated internally by the federal government, the National Research Council Canada spends more than \$1.6 million a year to protect the patents it holds. The National Research Council Canada patents produced \$5 million in revenue in the 2006–07 fiscal year.

Policies to manage intellectual property

2.11 From the 1940s to the early 1990s, the Government of Canada's management of intellectual property had been centralized under a Crown corporation known as Canadian Patents and Development Limited. Inventions developed by public servants and derived from Crown procurement contracts were transferred to the Corporation for processing, patentability assessments, and licensing. After the dissolution of Canadian Patents and Development Limited in 1993, the federal government decentralized the management of intellectual property and did not provide coordinated central guidance or support to federal entities. This presented challenges for federal government organizations, which had to develop their own infrastructure, including internal policies and appropriate staffing for managing intellectual property.

2.12 A number of acts and federal policies cover key issues related to intellectual property or articulate responsibilities and accountabilities for its management (Exhibit 2.2).

Exhibit 2.2 Key intellectual property legislation and policies

Legislation

- *Public Servants Inventions Act*
- *Copyright Act and Copyright Regulations*
- *Patent Act and Patent Rules*
- *Trade-marks Act*

Policies

- Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts (1991, revised and expanded 2000)
 - Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property (1993)
 - Award Plan for Inventors and Innovators Policy (1993)
-

2.13 Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts. In the past, the federal government retained ownership of all intellectual property resulting from Crown procurement contracts. In 1991, the Treasury Board of Canada's Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts was introduced to govern intellectual property generated from research and development contracts. The objective of the Policy was to allow the contractor to keep ownership of the intellectual property developed through contracting activities to increase its

potential for commercialization. The Policy also provides exceptions for the Crown to retain ownership of the intellectual property under certain circumstances. These exceptions are intended to ensure that the Crown's interest is protected (Exhibit 2.3). In 2000, the scope of the Policy was expanded from covering only intellectual property generated from research and development contracts to including all Crown procurement contracts that would result in the development of intellectual property. The Policy also included greater reporting requirements in an attempt to monitor compliance with it.

Exhibit 2.3 The Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts includes exceptions and an exemption to contractor ownership

Exceptions: The Policy provides exceptions to a contractor owning the intellectual property produced as a result of performing the contract work. The Crown may own this intellectual property in order to support broader public interests, including national security, the generation of knowledge, and public dissemination of information.

Exemption: Other circumstances apart from the Policy exceptions may warrant the Crown taking ownership of intellectual property. In these cases, entities are required to obtain prior approval from the Treasury Board of Canada.

2.14 Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property policy. Also in 1993, the government adopted the Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property. Through this policy, entities can receive an annual appropriation, equal to all the revenues they received from licensing Crown-owned intellectual property, to use toward intellectual property activities.

2.15 Award Plan for Inventors and Innovators Policy. In 1993, the Award Plan for Inventors and Innovators Policy came into effect with an objective to encourage scientists and researchers to pursue the commercialization of inventions. The Policy allows for inventors to receive a financial award stemming from the licensing or government use of their invention.

Focus of the audit

2.16 We conducted our audit to determine whether the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada could demonstrate that they manage Crown-owned intellectual property assets effectively.

2.17 Our audit covered the management of externally generated intellectual property resulting from its Crown procurement contracts,

including when Public Works and Government Services Canada acts as the contracting authority on behalf of the entity, and internally generated intellectual property. We looked at inventions, some of which resulted in patents, and copyright, which are the most prevalent types of intellectual property in the federal government. We did not look at trademarks or other types of intellectual property.

2.18 Our audit also covered how the federal government manages the internally generated intellectual property it develops according to its own policies including how entities implement the Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property and whether the Treasury Board of Canada Secretariat and the Canada Public Service Agency had monitored compliance with the Award Plan for Inventors and Innovators Policy. We also audited Industry Canada and the Treasury Board of Canada Secretariat in terms of their obligations outlined in the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.

2.19 Exhibit 2.4 describes the roles and responsibilities of the audited entities with respect to the intellectual property policies covered by the scope of this audit.

2.20 More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Exhibit 2.4 Roles and responsibilities of the audited entities with respect to the intellectual property policies covered by the scope of the audit

Entity	Policy		
	Policy on Title to Intellectual Property Under Crown Procurement Contracts	Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property	Award Plan for Inventors and Innovators Policy
National Research Council Canada Health Canada Fisheries and Oceans Canada	To comply with the Policy	To provide documentation on licensing revenues for Supplementary Estimates and allocate these funds toward intellectual property activities	<ul style="list-style-type: none"> • To establish the entity award plan • To distribute financial awards • To report annually on the award plan to the Treasury Board of Canada Secretariat
Public Works and Government Services Canada	<ul style="list-style-type: none"> • To act as the contracting authority for other entities when required • To compile entity intellectual property data for transmission to the Treasury Board of Canada Secretariat 	N/A	N/A
Industry Canada	To monitor the application of the policy and evaluate the Policy	N/A	N/A
Treasury Board of Canada Secretariat	To monitor the application of the policy and evaluate the Policy	To collect information received on the Supplementary Estimates from entities	To monitor the effectiveness of entity award plans and the Award Plan for Inventors and Innovators Policy (1993–2003)
Canada Public Service Agency (as of 2 March 2009, the Office of the Chief Human Resources Officer)	N/A	N/A	To monitor the effectiveness of entity award plans and the Award Plan for Inventors and Innovators Policy (2003–08)

Observations and Recommendations

Federal intellectual property policies

There are significant problems with the implementation, application, and monitoring of two key policies to manage intellectual property

2.21 The mixture of policies governing the management of intellectual property has resulted in a variety of management practices, some of which are inadequate. We found significant problems in the implementation, application, and monitoring of the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts and the Award Plan for Inventors and Innovators Policy. The federal government does not know whether these policies are meeting their objectives of encouraging the commercialization of intellectual property or protecting the intellectual property where appropriate. Ongoing monitoring of the policies the federal government uses to manage intellectual property is important to ensure that the intellectual property arising from federal investments in research translates into value for Canadians.

2.22 **Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.** Industry Canada and the Treasury Board of Canada Secretariat are responsible for monitoring the application of the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts. The Policy was approved in 2000 on the condition that it be evaluated in 2003 to determine if it was achieving its objective of transferring intellectual property to contractors to increase the potential for its commercial exploitation. An assessment of the Policy, commissioned by Industry Canada and finalized in 2004, identified difficulties with its implementation, including a lack of understanding of the Policy and misreporting of intellectual property resulting from procurement contracts. The resulting action plan proposed a number of measures, including making changes to the systems used by entities to report annually on intellectual property created through Crown procurement contracts to Public Works and Government Services Canada, which then transmits intellectual property ownership data to the Treasury Board of Canada Secretariat.

2.23 In 2007, the central reporting system was modified and entities were formally advised by the Treasury Board of Canada Secretariat to modify their own internal intellectual property reporting systems to reflect the correction, starting in January 2008. Consequently, Industry Canada and the Treasury Board of Canada Secretariat delayed the Policy evaluation until 2011.

2.24 We found that the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada modified their reporting systems between March and September 2008. Despite the recommended changes to the reporting systems, we found that much more needs to be done to ensure that the intellectual property data is accurately interpreted and correctly entered into reporting systems. Without increased efforts and adequate control over data by federal entities, an accurate account of intellectual property will not be possible in the future. Until these problems are fixed, it will be difficult to undertake an effective evaluation of the Policy.

2.25 Recommendation. Industry Canada and the Treasury Board of Canada Secretariat should work with federal entities to improve the monitoring of the application of the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, with a focus on cases where exceptions were invoked. They should work with federal entities to ensure that intellectual property data is accurately interpreted and that reporting systems correctly report ownership to support a future evaluation of the Policy.

Industry Canada and the Treasury Board of Canada Secretariat's response. Industry Canada and the Treasury Board of Canada Secretariat agree with the recommendation. Industry Canada and the Treasury Board of Canada Secretariat agree to work with federal entities to ensure that they are aware of the need for accurate and comprehensive data collection, to allow for a future evaluation of the Policy's effectiveness. Pursuant to the Treasury Board of Canada Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts (Section 10), deputy heads are accountable for implementing the Policy and ensuring that reporting responsibilities are met.

In 2007, Industry Canada and the Treasury Board of Canada Secretariat took action to ensure necessary modifications were made to the reporting systems for procurement contracts. A Contracting Policy Notice was subsequently sent to departments and agencies, advising of these changes. In addition, activities were undertaken to help federal entities understand these modifications, including a revision of the Implementation Guide for the Policy, the preparation of frequently asked questions, and the development of an e-learning product on intellectual property. These actions will help ensure the collection of more accurate data, which will be examined on an annual basis, to support an evaluation of the Policy, as planned, in 2011.

2.26 Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property. We found that the National Research

Council Canada, Health Canada, and Fisheries and Oceans Canada record and monitor information on disclosed inventions and collect and report licensing revenues. These revenues are ultimately used to support intellectual property activities such as financial awards to inventors and intellectual property training initiatives.

2.27 Award Plan for Inventors and Innovators Policy. According to the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada, offering financial incentives to scientists and researchers in the public service is important to pursuing the commercialization of inventions. The Award Plan for Inventors and Innovators Policy specifies that entities must establish their own award plan and must report annually on the financial awards distributed. The National Research Council Canada has implemented its own award plan, which Health Canada also uses. Fisheries and Oceans Canada does not have a plan but uses the Policy as a guide to offering financial awards.

2.28 We found that inventors had been awarded for the commercialization of inventions based on the revenues from royalties and licence fees. In the 2006–07 fiscal year, the National Research Council Canada awarded \$1.7 million to its scientists and researchers for the commercialization of internally generated intellectual property, while Health Canada and Fisheries and Oceans Canada awarded \$2,000 and \$24,000 respectively.

2.29 Under the Policy, inventors can also receive up to \$5,000 when the government uses their inventions. We found that the entities do not give financial incentives for inventions used by the government, with the exception of a financial award the National Research Council Canada gave to an employee in 1994 for the invention of a disposable ballot box.

2.30 Entities must submit an annual report to the Treasury Board of Canada Secretariat on the financial awards they distribute to their employees. The Treasury Board of Canada Secretariat is responsible for monitoring the effectiveness of entity award plans and the Policy itself. In 2004, the responsibility for monitoring the effectiveness of the Policy was transferred from the Treasury Board of Canada Secretariat to the Canada Public Service Agency. However, the Policy was not modified to reflect this change and there was no formal communication of the change to entities. Consequently, federal entities were not given an appropriate contact to send their reports on financial awards distributed to inventors. As of 2 March 2009, a new Office of the Chief Human Resources Officer was created to combine the functions of the Canada Public Service Agency and parts of the

Treasury Board of Canada Secretariat that deal with pensions and benefits, labour relations, and compensation.

2.31 We found that neither the Treasury Board of Canada Secretariat nor the Canada Public Service Agency has monitored the effectiveness of the entities' award plans or the effectiveness of the Policy itself. We also found that the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada distributed financial awards to inventors but did not report on them to the Treasury Board of Canada Secretariat or the Canada Public Service Agency. As a consequence, the federal government does not know if it has the appropriate financial incentives in place to encourage the commercialization of internally generated intellectual property or the government's use of inventions developed by public servants.

2.32 The Treasury Board of Canada Secretariat informed us that, as part of its Policy Suite Renewal exercise to clarify the responsibilities and accountabilities of ministers and deputy heads in key areas of public service work, it is planning to review the Retention of Royalties and Fees from the Licensing of Crown-Owned Intellectual Property and the Award Plan for Inventors and Innovators Policy. As well, in response to the commitment on intellectual property in the 2007 Science and Technology Strategy, Industry Canada and the National Research Council Canada co-chair an interdepartmental working group on knowledge translation and commercialization. The working group's top priority is to review the federal government's intellectual property policies to ensure they do not impede science and technology collaboration and commercialization through technology transfer. However, these efforts are independent from each other and thus will not provide a comprehensive overview assessment of the existing suite of policy tools to ensure they are meeting their objectives.

2.33 Recommendation. Industry Canada and the Treasury Board of Canada Secretariat should coordinate their ongoing and planned assessments of the existing intellectual property policies to provide better and more efficient support for common issues relating to the management of intellectual property.

Industry Canada and the Treasury Board of Canada Secretariat's response. Industry Canada and the Treasury Board of Canada Secretariat agree with the recommendation. Industry Canada and the Treasury Board of Canada Secretariat will work together to ensure assessments of existing intellectual property policies are coordinated and comprehensively address common issues. Industry Canada will share with the Treasury Board of Canada Secretariat and other

departments, through the Assistant Deputy Minister Committee on Science and Technology, assessments of federal intellectual property policies emanating from the work of the interdepartmental Knowledge Translation and Commercialization Working Group, which is co-chaired by Industry Canada and the National Research Council Canada. The Working Group was established following the release of the 2007 federal Science and Technology Strategy.

Externally generated intellectual property

Entities do not accurately identify and report on intellectual property

2.34 When intellectual property is expected to result from a contract, entities are responsible for identifying the intellectual property and determining who owns it—either the contractor or the Crown—before the contract is negotiated, and for reporting on it.

2.35 We found that the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada did not consistently identify whether intellectual property was expected to result from contracts. We found numerous contracts that had been reported to contain intellectual property but did not have any intellectual property. Among these was a service contract for the maintenance of a generator at the National Research Council Canada, and at Health Canada, numerous contracts for goods and services that included a vehicle, event planning, catering, and medical services. At Fisheries and Oceans Canada, we found a contract for language training services, which cited an exemption to the Policy that would require Treasury Board of Canada approval. This contract did not result in intellectual property and did not qualify for a Treasury Board of Canada-approved exemption.

2.36 We also found a number of contracts that did not contain intellectual property but were structured to include modified intellectual property clauses, statements of intellectual property ownership, and intellectual property licensing provisions, including provisions for copyright. These contracts were also reported to contain intellectual property to Public Works and Government Services Canada, although they contained none. At the National Research Council Canada, we found contracts for the acquisition, delivery, and management of printed publications and for the delivery of telescope parts. At Health Canada, we found contracts for office movers and printing services for a marketing campaign. At Fisheries and Oceans Canada, we found contracts for radios and engine parts.

2.37 In many of the contracts that we reviewed, intellectual property was not a component of the contracts; however, all of the entities inaccurately identified and reported them as having intellectual

property (Exhibit 2.5). This demonstrates a lack of understanding of how to identify intellectual property produced as the result of a contract. In addition, the three science-based organizations we examined have not assessed whether the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts has been implemented and applied within their respective organizations.

2.38 All the contracts we reviewed at the National Research Council Canada and several at Health Canada and Fisheries and Oceans Canada did not actually result in intellectual property (Exhibit 2.5). As a result, we did not analyze these contracts further.

Exhibit 2.5 The National Research Council Canada, Health Canada, and Fisheries and Oceans Canada did not identify and report intellectual property accurately



2.39 Recommendation. The National Research Council Canada, Health Canada, and Fisheries and Oceans Canada should ensure that they accurately identify the intellectual property expected to result from their Crown procurement contracts and ensure that the intellectual property is accurately reported.

The National Research Council Canada's response. The National Research Council Canada agrees with the recommendation. The National Research Council Canada's Procurement Office is already working with the National Research Council Canada's Central Business Office to review existing procedures in this area with a view to implementing improved practices, training, and guidelines. These improvements are aimed at the National Research Council Canada's procurement officers as well as the business development officers and

scientists involved in contracting throughout the National Research Council Canada's institutes, programs, and branches. The result will be the accurate identification of intellectual property arising under contracts as well as the proper management and exploitation of such intellectual property. We expect all improvements to be in place by November 2009.

Health Canada's response. Health Canada agrees with the recommendation. Health Canada will be enhancing the procurement process in order to accurately identify the intellectual property from Crown procurement contracts. In support of this, Health Canada procurement specialists will review and challenge the existence of intellectual property in contracts at the stage of the Contract and Requisition Control Committee review. In addition, Health Canada is currently developing a training strategy for procurement specialists and managers on the application of intellectual property and reporting of intellectual property in contracts. Health Canada will implement the corrective actions for the process improvement and training by end of the 2009–10 fiscal year.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. Over the next 6 to 12 months, the Department will ensure that intellectual property generated through Crown procurement contracts is identified, accurately recorded in the Department's financial system, and reported to central agencies. The Department will ensure that intellectual property is properly identified in all contract documents.

Health Canada and Fisheries and Oceans Canada do not adequately justify Crown ownership of intellectual property

2.40 When intellectual property is expected to result from a contract, the entity has to determine its ownership. We found that the Crown took ownership of the intellectual property in over half of all the contracts that we reviewed and, in many cases, without justification. At Health Canada, we found 20 out of 31 Crown-owned contracts, totalling \$2.2 million for the 2006 calendar year, where the Crown took ownership of the intellectual property without citing an exception or by citing exceptions that do not exist under the Policy. We found the same problems in 11 out of 26 Crown-owned contracts totalling \$0.7 million at Fisheries and Oceans Canada. As a result, Crown ownership of the intellectual property was not clearly justified and the contractors did not have access to intellectual property that may have had commercial potential.

2.41 Recommendation. When the Crown takes ownership of the intellectual property produced as the result of a contract, Health Canada and Fisheries and Oceans Canada should justify this decision using the exceptions provided for in, and required by, the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.

Health Canada's response. Health Canada agrees with the recommendation. Health Canada will be providing its procurement specialists and managers with training and communication material with respect to intellectual property identification and application of exceptions in the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts. Health Canada will implement the corrective actions for training by the end of the 2009–10 fiscal year.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. The Department will fully support and record all intellectual property ownership decisions. Over the next 6 to 12 months, the Department will implement measures to ensure that where it wishes to invoke one or more exceptions toward claiming Crown ownership of intellectual property arising under Crown procurement contracts, it will state and justify the exceptions as per the Treasury Board of Canada Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.

Health Canada and Fisheries and Oceans Canada are not fulfilling their obligations as a contracting authority

2.42 Before requesting bids from contractors as part of the Crown procurement process, federal entities need to determine the intellectual property rights they may want to exercise. In a software procurement contract, for example, the entity has to consider the possible uses for the software developed and secure the rights it needs to use, modify, and license the software. If it foresees that the software might need to be modified or licensed, it is important to ensure the contract reflects this. While an entity may want to develop software for its own use, before entering into a software development contract, it should consider whether the software might be of use to other government departments.

2.43 The management of intellectual property rights requires careful consideration. Not doing so may lead to extended negotiations resulting in termination of the contract, the contractor developing a competitive product, an inability to license the intellectual property to other federal departments, or an inability to guarantee title to the intellectual property resulting in the contractor backing out of the contract.

2.44 A contracting authority should ensure that both the document soliciting bids and the contract clearly state who would own the intellectual property produced as a result of the contract, including the exception invoked when the Crown decides to take ownership of the intellectual property. The contracting authority should also ensure that all contracts include clauses stating that the Crown's ownership or the licensing rights provided for in the contract would be protected in sub-contracts.

2.45 We found problems when Health Canada and Fisheries and Oceans Canada functioned as the contracting authority for their own contracts. In 34 out of 51 Health Canada files and in 15 out of 19 Fisheries and Oceans Canada files that we reviewed, we observed that the ownership of the intellectual property was not stated or was contradictorily stated in the advanced negotiation or bid solicitation documents.

2.46 Also, in 33 out of the 51 Health Canada files and 8 out of the 19 Fisheries and Oceans Canada files, there was no clause requiring sub-contracting arrangements to reflect the Crown's ownership or licensing rights. Adherence to the contracting authority obligations is important to ensure proper contract administration when intellectual property is expected to result from a contract.

2.47 When Public Works and Government Services Canada enters into Crown procurement contracts on behalf of other entities, Public Works and Government Services Canada acts as the contracting authority for those entities. However, departments remain responsible for decisions regarding the ownership of intellectual property. We found that Public Works and Government Services Canada fulfilled its responsibilities relating to intellectual property when it acted as the contracting authority on behalf of National Research Council Canada, Health Canada, and Fisheries and Oceans Canada.

2.48 Recommendation. Health Canada and Fisheries and Oceans Canada should state in both the documents soliciting bids and in the contract itself who will own the intellectual property, including the exception invoked when the Crown decides to take ownership of the intellectual property expected to result from the Crown procurement contract. These departments should also ensure that the Crown's ownership and/or licensing rights are protected in sub-contracts where applicable.

Health Canada's response. Health Canada agrees with the recommendation. Health Canada is updating a mandatory questionnaire on intellectual property, which is completed by

managers, as part of the training on intellectual property. This mandatory questionnaire is completed during the pre-contractual phase of procurement, which addresses contracting policy issues including intellectual property. This key control document identifies ownership of intellectual property resulting from a contract; it is being amended to provide additional controls such as the requirement to record exemptions invoked when the Crown takes ownership of the intellectual property produced as a result of a Crown procurement contract. The questionnaire will be implemented by end of April 2009.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. The Department will implement measures, over the next 6 to 12 months, to ensure the following:

- Documents soliciting bids and corresponding procurement contracts state whether intellectual property arising under contracts will be vested in the Crown or owned by the contractor, to ensure that the Crown's ownership and licensing rights are protected.
- In cases where the Crown elects to own the intellectual property, these exceptions will be set out in those documents and recorded in the Department's financial system for reporting purposes. The Project Authority of these contracts will also ensure protection of this Crown-owned intellectual property.
- Crown ownership and/or licensing rights are protected/secured in subcontracts, where applicable.

Fisheries and Oceans Canada will include standardized intellectual property clauses in all procurement contracts.

Internally generated intellectual property

Health Canada and Fisheries and Oceans Canada lack a department-wide policy for managing their intellectual property

2.49 An entity-wide intellectual property policy forms the framework for managing intellectual property assets appropriately. It provides linkages to government direction and policies; provides strategic corporate direction to ensure that the management of intellectual property relates to the entity's mandate, goals, and priorities; outlines responsibilities for intellectual property; and facilitates consistent management of intellectual property throughout the entity. Since the federal government does not have an overall policy for managing internally generated intellectual property, it is even more important that entities develop their own entity-wide intellectual property policy.

2.50 The National Research Council Canada's intellectual property policy provides a basis for managing internally generated intellectual property and includes guidance on roles and responsibilities for managing intellectual property, as well as for disclosure, ownership, and protection. Following the examination phase of the audit, the National Research Council Canada told us that it is interested in leveraging its expertise and management framework to support the federal government's management of internally generated intellectual property, and plans to engage senior level entity officials to explore opportunities and possible options.

2.51 Health Canada developed a draft version of an intellectual property policy in 2005, but has not implemented it due to a lack of resources. Fisheries and Oceans Canada has an intellectual property policy, but it is not department-wide. The Canadian Hydrographic Service, part of Fisheries and Oceans Canada's Science Sector, and the Canadian Coast Guard do not use the Department's policy and do not have their own intellectual property policy. In the summer of 2008, during our audit, Fisheries and Oceans Canada created a departmental working group to develop a department-wide intellectual property policy.

2.52 In the absence of central guidance on licensing and commercialization, entities need to develop their own policies, guidelines, and procedures for licensing intellectual property to help ensure that they consider commercialization opportunities. We found that the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada all license internally generated intellectual property. However, Health Canada and Fisheries and Oceans Canada lack guidelines for doing so. While these departments had smaller licensing revenues than the National Research Council Canada did in the 2006–07 fiscal year, guidance is needed to ensure that staff know how to proceed with licensing and commercializing intellectual property.

2.53 At the time of our audit, the National Research Council Canada was developing more comprehensive guidelines on licensing and commercialization. Health Canada has not yet developed guidelines on licensing intellectual property. Fisheries and Oceans Canada's Science sector has outdated procedures for managing intellectual property that contain some guidelines on licensing. Department officials informed us that following the finalization and approval of Fisheries and Oceans Canada's new intellectual property policy, the Department plans to develop accompanying licensing guidelines.

2.54 Recommendation. Health Canada and Fisheries and Oceans Canada should develop and approve a department-wide intellectual

property policy, including guidelines for licensing and commercializing intellectual property.

Health Canada's response. Health Canada agrees with the recommendation to develop a department-wide intellectual property policy that will be appropriate for its regulator mandate to protect and maintain the health of Canadians. The Department has initiated a review of its draft 2005 policy and its current situation, which will lead to the development of the departmental policy. Health Canada intends to have an approved policy including guidelines for licensing and commercialization by summer 2011.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. The Department has created a working group to expedite the development of a Fisheries and Oceans Canada intellectual property policy for managing, licensing, and commercializing intellectual property. Guidelines supporting implementation of the policy will also be developed. The policy and the guidelines should be completed in the 2009–10 fiscal year.

Health Canada and Fisheries and Oceans Canada need to improve their identification and disclosure of inventions

2.55 Effective management of intellectual property assets requires that the entity understands what intellectual property it holds. Identifying the intellectual property an entity generates in the course of its research activity is challenging, particularly when the intellectual property emerges as a by-product of an activity. However, identification is crucial for making subsequent decisions regarding the ongoing management of these assets or their transfer to the private sector.

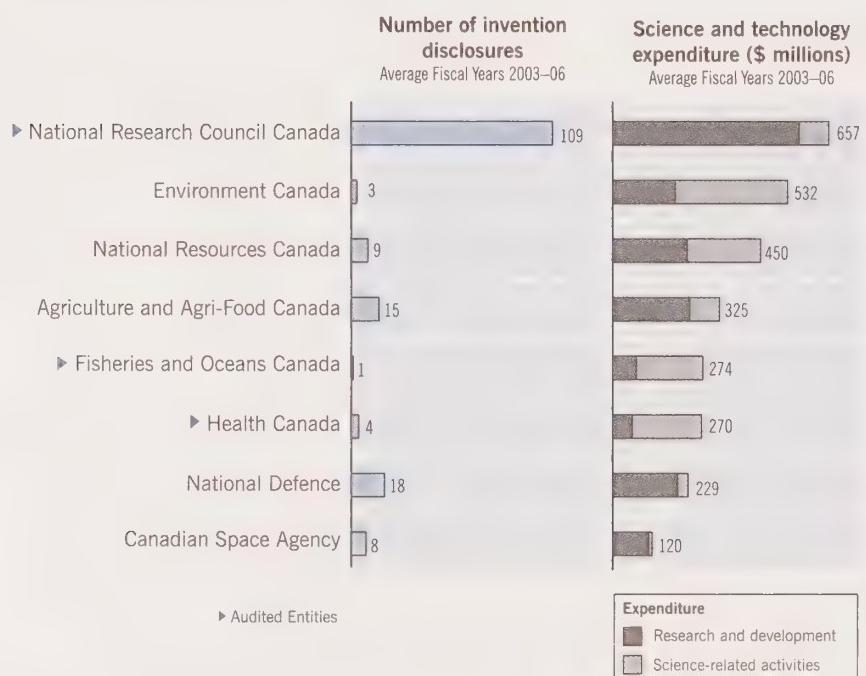
2.56 When public servants develop an invention, they must submit an invention disclosure form. Failure to identify and disclose inventions may result in loss of potential intellectual property benefits to the entity, government, and society as a whole. The average number of invention disclosures varies among entities with significant science and technology expenditures, including millions of dollars in research and development (Exhibit 2.6).

2.57 We found that the National Research Council Canada has a process for identifying inventions that involves its researchers, business development officers at its institutes, and its central intellectual property office. In addition, it systematically reviews its research papers before publication to identify and prevent accidental disclosure of any intellectual property. It also provides ongoing training in how to identify and disclose intellectual property.

2.58 Conversely, Health Canada and Fisheries and Oceans Canada do not have a process for identifying inventions (Exhibit 2.7). The departments do not have formal mechanisms to assist staff in determining what constitutes internally generated intellectual property. They primarily rely on their sole intellectual property advisor to offer some training on the subject to departmental staff.

2.59 Department officials at Health Canada and Fisheries and Oceans Canada told us that they were not certain if all department staff disclosed all inventions. In the 2006 calendar year, we found only one disclosed invention at Health Canada and only two at Fisheries and Oceans Canada. Despite the innovative work conducted in these departments, their significant expenditures on science and technology, including millions of dollars in research and development, and the number of scientists and researchers they employ, these entities do not know whether all intellectual property is being disclosed.

Exhibit 2.6 The average number of invention disclosures varied among entities during the fiscal years 2003–06



Source: Statistics Canada

Exhibit 2.7 The adequacy of identification and disclosure of internally generated inventions varies among and within entities

Entity	Inventions
National Research Council Canada	Adequate
Health Canada	Needs improvement
Fisheries and Oceans Canada	
• Integrated Business Management	Needs improvement
• Canadian Hydrographic Service	N/A
• Canadian Coast Guard	Inadequate

2.60 Recommendation. Health Canada and Fisheries and Oceans Canada should establish a mechanism to ensure that inventions are adequately identified and disclosed.

Health Canada's response. Health Canada agrees with the recommendation. The Department-wide intellectual property policy will address the issues around invention identification and disclosure, including appropriate mechanisms to do so. This will be developed in accordance with the strong regulatory mandate of the Department, which directs the focus of the science and technology activities performed at Health Canada.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. It will develop a departmental intellectual property policy that will include measures to identify and disclose inventions and other intellectual property arising from Crown procurement contracts that it awards or that are awarded by Public Works and Government Services Canada on its behalf. Fisheries and Oceans Canada will develop guidelines consistent with its intellectual property policy, which will incorporate measures to ensure that in-house inventions and other intellectual property are adequately identified and disclosed. It will implement the guidelines immediately following their approval, and ensure that they are understood by all managers. As the policy and guidelines will be completed in 2009–10, implementation will be initiated subsequently.

In Health Canada and Fisheries and Oceans Canada, Crown-owned copyright is not being adequately disclosed

2.61 Crown-owned copyright is assigned to written materials produced by public servants. While a federal mechanism exists for disclosing inventions, there is no formal mechanism in place for public servants to disclose their Crown-owned copyright material. The lack of a formal disclosure mechanism makes it difficult for entities to systematically identify and obtain information on the potentially valuable copyright material their employees produce. This creates several potential risks, including lost opportunities for protection and for commercialization by not identifying intellectual property contained in publications.

2.62 The National Research Council Canada has a mechanism for identifying and disclosing Crown-owned copyright material. We found that Health Canada did not know how much Crown-owned copyright material its employees produce and that employees are not aware that they should be informing the intellectual property office about the material they have produced for publication. Similarly, at Fisheries and Oceans Canada, with the exception of the Canadian Hydrographic Service, we found that the Department did not know how much Crown-owned copyright material its employees produce (Exhibit 2.8).

Exhibit 2.8 The adequacy of identification and disclosure of internally generated Crown-owned copyright varies among and within entities

Entity	Copyright
National Research Council Canada	Adequate
Health Canada	Inadequate
Fisheries and Oceans Canada	
• Integrated Business Management	Inadequate
• Canadian Hydrographic Service	Adequate
• Canadian Coast Guard	Inadequate

2.63 Recommendation. Health Canada and Fisheries and Oceans Canada should ensure that Crown-owned copyright material that has potential intellectual property value is properly disclosed.

Health Canada's response. Health Canada agrees with the recommendation to ensure that Crown-owned copyright material that has potential value is properly disclosed as this will be addressed in the

department-wide intellectual property policy to be developed. This policy will take into account the predominant public good nature of the intellectual property generated at Health Canada. Furthermore, training will be developed for the scientific community at Health Canada to support the implementation of the department-wide intellectual property policy by summer 2011.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. It will ensure that mechanisms are developed to ensure that Crown-owned copyright assets that have potential value can be properly disclosed. The Department's Canadian Hydrographic Service data and data products are disclosed automatically upon incorporation in data management systems that are used by the Canadian Hydrographic Service to process the data and create data products.

The Department intends, over the next 6 to 12 months, to raise awareness among staff of the potential value of intellectual property associated with scientific papers, including software and data products that are subject to copyright and technology that might be disclosed therein.

It is believed that enhanced awareness among staff on the potential value of intellectual property will substantially contribute to addressing the recommendation as staff would generally be better informed and more cautious about publishing any copyright material that might jeopardize the commercialization of the copyright material or of any invention described therein.

Conclusion

2.64 Eight years after the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts was revised and expanded, the federal government is still not in a position to know if the objective of the Policy is being realized. Industry Canada and the Treasury Board of Canada Secretariat have not adequately monitored the application of the Policy, with a focus on cases where exceptions were invoked. In addition, Industry Canada and the Treasury Board of Canada Secretariat have not yet evaluated the Policy. Preparations for the 2011 evaluation of the Policy are ongoing. Our audit work found that there are significant errors in the data due to a lack of understanding of intellectual property management. These errors will undermine a future evaluation of the Policy unless data validity is established at the entity level.

2.65 The National Research Council Canada, Health Canada, and Fisheries and Oceans Canada distribute awards to inventors based on the guidance provided in the Award Plan for Inventors and Innovators Policy. Neither the Treasury Board of Canada Secretariat nor the Canada Public Service Agency has monitored the effectiveness of the entities' award plans, or the effectiveness of the Policy itself. As a result, the federal government does not know if it has the appropriate financial incentives in place to encourage the commercialization of internally generated intellectual property or the use of inventions within the government. The National Research Council Canada has its own award plan in place, while Health Canada and Fisheries and Oceans Canada do not. None of the three entities reported to the Treasury Board of Canada Secretariat or the Canada Public Service Agency on the financial awards distributed.

2.66 We found that the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada did not accurately identify or report their intellectual property resulting from Crown procurement contracts. Given that the entire sample for the National Research Council of Canada did not actually contain intellectual property, we do not have a basis for further assessing how it managed intellectual property resulting from Crown procurement contracts. Health Canada and Fisheries and Oceans Canada do not accurately justify Crown ownership of intellectual property and are not fulfilling their obligations as a contracting authority.

2.67 When Public Works and Government Services Canada functioned as the contracting authority for the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada, we found that it fulfilled its responsibilities relating to intellectual property.

2.68 The National Research Council of Canada has mechanisms in place to adequately manage its internally generated intellectual property assets, including an entity-wide intellectual property policy and mechanisms to identify intellectual property, while Health Canada and Fisheries and Oceans Canada do not.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objectives

This audit examined whether selected federal entities can demonstrate that they manage Crown intellectual property assets effectively. Our specific objectives were the following:

- Determine whether the Treasury Board of Canada Secretariat and Industry Canada are fulfilling their policy obligations with respect to monitoring the application of the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.
- Determine whether the Treasury Board of Canada Secretariat and the Canada Public Service Agency have fulfilled their policy obligations with respect to the Award Plan for Inventors and Innovators Policy.
- Determine the extent to which the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada can demonstrate compliance with the Treasury Board of Canada Secretariat's Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.
- Determine whether the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada can demonstrate that they have mechanisms in place to adequately manage their internally generated intellectual property assets.

Scope

The audit included the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada. At the National Research Council Canada, we looked at the Central Business Support Office, Administrative Services and Property Management Branch, and its institutes. At Health Canada, we looked at the Intellectual Property and Technology Transfer Office and the Procurement and Contracting Division. At Fisheries and Oceans Canada, we looked at Integrated Business Management and the Canadian Hydrographic Service, which are part of the Sciences Sector; the Canadian Coast Guard; the Accounting, Materiel and Administrative Services Branch; and the Finance and Administration Directorate. The audit also included the Acquisition Program Integrity Secretariat at Public Works and Government Services Canada, the Federal Science and Technology Policy Branch at Industry Canada, the Investment Project Management and Procurement Policy Division and the Strategic Policy Branch at the Treasury Board of Canada Secretariat, and the Learning and Leadership Development Branch at the Canada Public Service Agency.

The sample of contracts we reviewed for this audit was drawn from 1 January 2006 to 31 December 2006, the most current year at the time of the audit where we had an entire calendar year of data. We excluded all data that had previously identified coding errors. We reviewed 147 Crown procurement contracts.

drawn from a sample that excluded contracts that the government had previously identified as being inaccurately coded. We also looked at contracts from 1 January 2000 to 31 December 2006 in which the Treasury Board of Canada exemption was invoked. We also reviewed 55 invention disclosures and 37 licence agreements.

Approach

We used the Government Wide Procurement Reporting System database of Crown procurement contracts to find contracts valued at \$25,000 or more and that were reported to contain intellectual property. This allowed us to

- determine the extent to which the National Research Council Canada, Health Canada, and Fisheries and Oceans Canada had complied with the Treasury Board of Canada Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts;
- identify the contracts where Public Works and Government Services Canada acted as the contracting authority for each of the above mentioned entities; and
- examine the extent to which Public Works and Government Services Canada complied with the contracting authority functions identified in the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.

We identified 345 Crown procurement contracts that had been reported during the period from 1 January 2006 to 31 December 2006. The contracts that we identified were as follows:

- 7 contracts with contractor-owned intellectual property at the National Research Council Canada
- 262 contracts with contractor-owned intellectual property and 38 contracts with Crown-owned intellectual property at Health Canada
- 12 contracts with contractor-owned intellectual property and 26 contracts with Crown-owned intellectual property at Fisheries and Oceans Canada

Of the 345 contracts, we examined a total of 147 contracts:

- 4 contracts were at the National Research Council Canada with contractor-owned intellectual property (in two of which Public Works and Government Services Canada was the contracting authority) and three contracts with Crown-owned intellectual property (in 2 of which Public Works and Government Services Canada was the contracting authority).
- 50 contracts with contractor-owned intellectual property were at Health Canada (in 7 of which Public Works and Government Services Canada was the contracting authority) and 50 contracts with Crown-owned intellectual property (in 4 of which Public Works and Government Services Canada was the contracting authority). Health Canada could not provide us with 13 contracts from our sample of 113, so we could not assess whether these contracts complied with the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts. According to Health Canada, one file was deleted from the system and four others had no invoices.
- 12 contracts with contractor-owned intellectual property were at Fisheries and Oceans Canada (in 6 of which Public Works and Government Services Canada was the contracting authority) and 26

contracts with Crown-owned intellectual property (in 14 of which Public Works and Government Services Canada was the contracting authority). We reviewed an additional 2 contracts at Fisheries and Oceans Canada that contained intellectual property, which we found should have been reported but were not.

Out of a total of 255 contractor-owned files available in Health Canada's records, we took a random sample of 60 where Health Canada was the contracting authority in such a way as to give a margin of sampling error (a confidence interval) of plus or minus 10 percent at a 90 percent confidence level.

We also assessed all Crown procurement contracts valued at \$25,000 or more and reported to contain intellectual property where the Crown had invoked an exemption requiring Treasury Board approval during the period 1 January 2000 to 31 December 2006. Our sample contained one such Crown procurement contract at Fisheries and Oceans Canada.

We reviewed a total of 55 invention disclosure forms (one form at Health Canada, two forms at Fisheries and Oceans Canada, and 52 forms at the National Research Council Canada) that had been signed in the 2006 calendar year, to determine if there was an adequate process in place for identifying internally generated intellectual property.

We reviewed a total of 37 licence agreements (30 licences at the National Research Council Canada and 7 licences at Fisheries and Oceans Canada; there were no licences at Health Canada) that had been signed in the 2006 calendar year, to determine whether there was an adequate process in place to license, transfer, and/or commercialize internally generated intellectual property.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that the Treasury Board of Canada Secretariat and Industry Canada can demonstrate that they monitor the application of the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, with a focus on cases where exceptions have been invoked.	Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, section 11
We expected that Public Works and Government Services Canada is compiling the data on the ownership of intellectual property that is collected at the time of contract approval in departments and agencies and is reporting this information annually in the Annual Report to Treasury Board on Contracting Authority.	Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, section 10.3
We expected that the federal entity complies with the Treasury Board of Canada policy on the Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property.	Retention of Royalties and Fees from the Licensing of Crown-owned Intellectual Property, Treasury Board of Canada Secretariat, 1993
We expected that, with respect to the Award Plan for Inventors and Innovators Policy, the Treasury Board of Canada Secretariat and the Canada Public Service Agency have monitored the effectiveness of departmental and agency plans and the Policy.	Award Plan for Inventors and Innovators Policy, Treasury Board of Canada Secretariat, 1994, Monitoring

Criteria	Sources
We expected that the federal entity complies with the Treasury Board of Canada Award Plan for Inventors and Innovators Policy.	Award Plan for Inventors and Innovators Policy, Treasury Board of Canada, 1994, Policy requirements, Monitoring, Responsibilities, and Appendix A
We expected that the federal entity has an adequate process in place to determine when intellectual property should be owned by the contractor.	Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, section 5
We expected that the federal entity has an adequate process in place to determine when intellectual property should be owned by the Crown.	<ul style="list-style-type: none"> • Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, section 6
<p>Sub-criteria:</p> <p>We expected that the federal entity's Crown procurement contracts provide ownership provisions and that the respective contract file, including the bid solicitation document, contain these provisions and justify the need for the Crown to own intellectual property by citing section 6 exceptions or by Treasury Board of Canada approval for section 8 exemptions.</p>	<ul style="list-style-type: none"> • Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, sections 7 and 8
We expected that the assigned Contracting Authority for Crown Procurement Contracts can demonstrate that it fulfills its policy obligations.	Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, sections 3.4, 3.5, 4, 5, 5.2, 5.3, 5.4, 7.1, 10, 10.3, and 10.4
We expected that the federal entity has an adequate process in place to license intellectual property.	<ul style="list-style-type: none"> • Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, section 9
<p>Sub-criteria:</p> <p>We expected that the federal entity's Crown procurement contracts provide licensing provisions to acquire copyright and/or patent rights to enable the Crown to use required intellectual property when the contractor owns it.</p>	<ul style="list-style-type: none"> • Implementation Guide for the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, 2000, Appendix A
We expected that the federal entity can demonstrate that it has implemented policies or guidelines for managing internally generated intellectual property.	<ul style="list-style-type: none"> • Policy on the Management of Projects, Treasury Board of Canada, 2007, sections 3.1 and 3.2
	<ul style="list-style-type: none"> • Management Accountability Framework, Treasury Board of Canada Secretariat, 2003 • Guide for the Development of Results-based Management and Accountability Frameworks, Treasury Board of Canada Secretariat, 2001, Annex B: Criteria for the Self-Assessment of Results-based Management and Accountability Frameworks
We expected that the federal entity can demonstrate that it has adequate mechanisms in place for identifying internally generated intellectual property.	<ul style="list-style-type: none"> • Policy on Investment Planning—Assets and Acquired Services, Treasury Board of Canada Secretariat, 2007, sections 2.1, 6.1.2, and 6.1.3
We expected that the federal entity can demonstrate that it has adequate systems and practices in place for collecting and reporting internally generated intellectual property-related information.	<ul style="list-style-type: none"> • Financial Systems and Controls, Treasury Board of Canada Secretariat, 1996, sections 1.1(b) and 2(c) • Policy on Information Management, Treasury Board of Canada, 2007, section 6 • Policy on Active Monitoring, Treasury Board of Canada, 2001

Audit work completed

Audit work for this chapter was substantially completed on 19 September 2008.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 2. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p>Federal intellectual property policies</p> <p>2.25 Industry Canada and the Treasury Board of Canada Secretariat should work with federal entities to improve the monitoring of the application of the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts, with a focus on cases where exceptions were invoked. They should work with federal entities to ensure that intellectual property data is accurately interpreted and that reporting systems correctly report ownership to support a future evaluation of the policy. (2.21–2.24)</p>	<p>Industry Canada and the Treasury Board of Canada Secretariat's response. Industry Canada and the Treasury Board of Canada Secretariat agree with the recommendation. Industry Canada and the Treasury Board of Canada Secretariat agree to work with federal entities to ensure that they are aware of the need for accurate and comprehensive data collection, to allow for a future evaluation of the policy's effectiveness. Pursuant to the Treasury Board of Canada Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts (Section 10), deputy heads are accountable for implementing the Policy and ensuring that reporting responsibilities are met.</p> <p>In 2007, Industry Canada and the Treasury Board of Canada Secretariat took action to ensure necessary modifications were made to the reporting systems for procurement contracts. A Contracting Policy Notice was subsequently sent to departments and agencies, advising of these changes. In addition, activities were undertaken to help federal entities understand these modifications, including a revision of the Implementation Guide for the Policy, the preparation of frequently asked questions, and the development of an e-learning product on intellectual property. These actions will help ensure the collection of more accurate data, which will be examined on an annual basis, to support an evaluation of the Policy, as planned, in 2011.</p>

Recommendation**Response**

2.33 Industry Canada and the Treasury Board of Canada Secretariat should coordinate their ongoing and planned assessments of the existing intellectual property policies to provide better and more efficient support for common issues relating to the management of intellectual property. (2.26–2.32)

Industry Canada and the Treasury Board of Canada
Secretariat's response. Industry Canada and the Treasury Board of Canada Secretariat agree with the recommendation. Industry Canada and the Treasury Board of Canada Secretariat will work together to ensure assessments of existing intellectual property policies are coordinated and comprehensively address common issues. Industry Canada will share with the Treasury Board of Canada Secretariat and other departments, through the Assistant Deputy Minister Committee on Science and Technology, assessments of federal intellectual property policies emanating from the work of the interdepartmental Knowledge Translation and Commercialization Working Group, which is co-chaired by Industry Canada and the National Research Council Canada. The Working Group was established following the release of the 2007 federal Science and Technology Strategy.

Externally generated intellectual property

2.39 The National Research Council Canada, Health Canada, and Fisheries and Oceans Canada should ensure that they accurately identify the intellectual property expected to result from their Crown procurement contracts and ensure that the intellectual property is accurately reported. (2.34–2.38)

The National Research Council Canada's response. The National Research Council Canada agrees with the recommendation. The National Research Council Canada's Procurement Office is already working with the National Research Council Canada's Central Business Office to review existing procedures in this area with a view to implementing improved practices, training, and guidelines. These improvements are aimed at the National Research Council Canada's procurement officers as well as the business development officers and scientists involved in contracting throughout the National Research Council Canada's institutes, programs, and branches. The result will be the accurate identification of intellectual property arising under contracts as well as the proper management and exploitation of such intellectual property. We expect all improvements to be in place by November 2009.

Health Canada's response. Health Canada agrees with the recommendation. Health Canada will be enhancing the procurement process in order to accurately identify the intellectual property from Crown procurement contracts. In support of this, Health Canada procurement specialists will review and challenge the existence of intellectual property in contracts at the stage of the Contract and Requisition Control Committee review. In addition, Health Canada is currently

Recommendation**Response**

developing a training strategy for procurement specialists and managers on the application of intellectual property and reporting of intellectual property in contracts. Health Canada will implement the corrective actions for the process improvement and training by end of the 2009–10 fiscal year.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. Over the next 6 to 12 months, the Department will ensure that intellectual property generated through Crown procurement contracts is identified, accurately recorded in the Department's financial system, and reported to central agencies. The Department will ensure that intellectual property is properly identified in all contract documents.

2.41 When the Crown takes ownership of the intellectual property produced as the result of a contract, Health Canada and Fisheries and Oceans Canada should justify this decision using the exceptions provided for in, and required by, the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts. (2.40)

Health Canada's response. Health Canada agrees with the recommendation. Health Canada will be providing its procurement specialists and managers with training and communication material with respect to intellectual property identification and application of exceptions in the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts. Health Canada will implement the corrective actions for training by the end of the 2009–10 fiscal year.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. The Department will fully support and record all intellectual property ownership decisions. Over the next 6 to 12 months, the Department will implement measures to ensure that where it wishes to invoke one or more exceptions toward claiming Crown ownership of intellectual property arising under Crown procurement contracts, it will state and justify the exceptions as per the Treasury Board of Canada Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.

Recommendation

2.48 Health Canada and Fisheries and Oceans Canada should state in both the documents soliciting bids and in the contract itself who will own the intellectual property, including the exception invoked when the Crown decides to take ownership of the intellectual property expected to result from the Crown procurement contract. These departments should also ensure that the Crown's ownership and/or licensing rights are protected in sub-contracts where applicable.

(2.42–2.47)

Response

Health Canada's response. Health Canada agrees with the recommendation. Health Canada is updating a mandatory questionnaire on intellectual property, which is completed by managers, as part of the training on intellectual property. This mandatory questionnaire is completed during the pre-contractual phase of procurement, which addresses contracting policy issues including intellectual property. This key control document identifies ownership of intellectual property resulting from a contract; it is being amended to provide additional controls such as the requirement to record exemptions invoked when the Crown takes ownership of the intellectual property produced as a result of a Crown procurement contract. The questionnaire will be implemented by end of April 2009.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. The Department will implement measures, over the next 6 to 12 months, to ensure the following:

- Documents soliciting bids and corresponding procurement contracts state whether intellectual property arising under contracts will be vested in the Crown or owned by the contractor, to ensure that the Crown's ownership and licensing rights are protected.
- In cases where the Crown elects to own the intellectual property, these exceptions will be set out in those documents and recorded in the Department's financial system for reporting purposes. The Project Authority of these contracts will also ensure protection of this Crown-owned intellectual property.
- Crown ownership and/or licensing rights are protected/secured in subcontracts, where applicable.

Fisheries and Oceans Canada will include standardized intellectual property clauses in all procurement contracts.

Recommendation**Response****Internally generated intellectual property**

2.54 Health Canada and Fisheries and Oceans Canada should develop and approve a department-wide intellectual property policy, including guidelines for licensing and commercializing intellectual property. (2.49–2.53)

Health Canada's response. Health Canada agrees with the recommendation to develop a department-wide intellectual property policy that will be appropriate for its regulator mandate to protect and maintain the health of Canadians. The Department has initiated a review of its draft 2005 policy and its current situation, which will lead to the development of the departmental policy. Health Canada intends to have an approved policy including guidelines for licensing and commercialization by summer 2011.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. The Department has created a working group to expedite the development of a Fisheries and Oceans Canada intellectual property policy for managing, licensing, and commercializing intellectual property. Guidelines supporting implementation of the policy will also be developed. The policy and the guidelines should be completed in the 2009–10 fiscal year.

2.60 Health Canada and Fisheries and Oceans Canada should establish a mechanism to ensure that inventions are adequately identified and disclosed. (2.55–2.59)

Health Canada's response. Health Canada agrees with the recommendation. The department-wide intellectual property policy will address the issues around invention identification and disclosure, including appropriate mechanisms to do so. This will be developed in accordance with the strong regulatory mandate of the Department, which directs the focus of the science and technology activities performed at Health Canada.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. It will develop a departmental intellectual property policy that will include measures to identify and disclose inventions and other intellectual property arising from Crown procurement contracts that it awards or that are awarded by Public Works and Government Services Canada on its behalf. Fisheries and Oceans Canada will develop guidelines consistent with its intellectual property policy, which will incorporate measures to ensure that in-house inventions and other intellectual property are adequately identified and disclosed. It will implement the guidelines immediately following their approval, and ensure that they are understood by all managers. As the policy and guidelines will be completed in 2009–10, implementation will be initiated subsequently.

Recommendation

2.63 Health Canada and Fisheries and Oceans Canada should ensure that Crown-owned copyright material that has potential intellectual property value is properly disclosed. (2.61–2.62)

Response

Health Canada's response. Health Canada agrees with the recommendation to ensure that Crown-owned copyright material that has potential value is properly disclosed as this will be addressed in the department-wide intellectual property policy to be developed. This policy will take into account the predominant public good nature of the intellectual property generated at Health Canada. Furthermore, training will be developed for the scientific community at Health Canada to support the implementation of the department-wide intellectual property policy by summer 2011.

Fisheries and Oceans Canada's response. Fisheries and Oceans Canada agrees with the recommendation. It will ensure that mechanisms are developed to ensure that Crown-owned copyright assets that have potential value can be properly disclosed. The Department's Canadian Hydrographic Service data and data products are disclosed automatically upon incorporation in data management systems that are used by the Canadian Hydrographic Service to process the data and create data products.

The Department intends, over the next 6 to 12 months, to raise awareness among staff of the potential value of intellectual property associated with scientific papers, including software and data products that are subject to copyright and technology that might be disclosed therein.

It is believed that enhanced awareness among staff on the potential value of intellectual property will substantially contribute to addressing the recommendation as staff would generally be better informed and more cautious about publishing any copyright material that might jeopardize the commercialization of the copyright material or of any invention described therein.

Report of the Auditor General of Canada to the House of Commons—Spring 2009

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2009



SPRING

Report of the
**Auditor General
of Canada**
to the House of Commons

Chapter 3
Health and Safety in Federal Office Buildings



Office of the Auditor General of Canada



2009



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Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

3

Health and Safety in Federal Office
Buildings

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Health and Safety in Federal Office Buildings

Main Points

What we examined

Responsibility for ensuring the health and safety of federal employees working in a federally administered office building is shared among many parties. Public Works and Government Services Canada (PWGSC) is responsible for ensuring that federally occupied buildings, their operating systems, and equipment remain safe in accordance with applicable laws and regulations. Human Resources and Skills Development Canada (HRSDC), through its Labour Program, is responsible for administering and enforcing fire protection policy and standards in federally occupied buildings. In addition, individual departments have a responsibility for the health and safety of their employees working in those buildings.

We examined whether PWGSC manages the operation and maintenance of buildings under its administration in a way that effectively minimizes risks to the health and safety of building occupants.

We also assessed whether departments were planning for fire emergencies in compliance with key requirements of the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (the Standard), including conducting required fire drills. In addition, we looked at the activities of Fire Protection Services (formerly called the Fire Commissioner of Canada), the division within HRSDC's Labour Program responsible for administering and enforcing this Standard. We also looked at the role of the Labour Program's regional and district offices in reviewing fire safety plans for buildings occupied by the federal government.

We looked at buildings administered by PWGSC to see whether the departments had adhered to the applicable policies and standards. Our audit focused on general-purpose office buildings administered by PWGSC and did not consider special-purpose buildings, the Parliamentary Precinct, or buildings administered by other government departments or agencies. We did not look at occupational health and safety programs of government departments. Our audit was not designed to assess the health and safety of a building, but rather to

examine the practices departments have in place to manage and mitigate risks to the health and safety of building occupants.

Why it's important

The federal government employs about 230,000 people in all regions of Canada who work in more than 1,400 buildings administered by PWGSC. In an organization of such magnitude, with high-rise buildings accommodating often thousands of workers, it is important that all established policies and standards are consistently adhered to. An overall culture of safety, promoted by management and including good building evacuation plans, fire evacuation drills, and properly maintained facilities, could greatly reduce the risks to the health and safety of employees. A sound framework for the maintenance and operation of buildings is critical to the health and safety of federal employees.

What we found

- Although departments are required to hold annual fire evacuation drills in order to train employees and test evacuation procedures, in 33 percent of the 54 buildings we looked at, departments could not demonstrate that they were doing so. Furthermore, the departments occupying almost all of the high buildings we reviewed are not carrying out the additional drills required. Departments do not comply with key requirements of the Standard for Fire Safety Planning and Fire Emergency Organization. For example, fire safety plans for the majority of buildings in our audit have not been submitted to HRSDC's Labour Program—the federal government's technical authority on fire safety—for review and acceptance. In response to concerns we raised during our audit about the lack of reviewed and approved fire safety plans and to letters we sent to departments drawing particular attention to non-compliance with fire drill requirements, departments began to take corrective action in order to address those deficiencies.
- HRSDC's Labour Program does not fully administer and enforce the Standard for Fire Safety Planning and Fire Emergency Organization. There is no government-wide monitoring of participation in fire evacuation drills. In addition, the Labour Program does not have adequate management systems in place to ensure that it reviews fire safety plans for all government buildings to determine whether they are adequate to evacuate employees in an emergency. The Labour Program had reviewed the plans for only 19 of the 54 buildings included in our audit (35 percent) and only 10 of these plans met the requirements of the Standard and were accepted.

- PWGSC has established clear internal policies and guidance for managing the condition and operation of office buildings under its administration. However, the Department could not demonstrate that established practices were followed consistently. We noted, for example, that in leased properties, PWGSC staff were not carrying out required building performance reviews in accordance with the Department's guidance.
- While PWGSC has a list of repairs and maintenance projects that it has identified to correct high-priority deficiencies, including those related to health and safety, it cannot demonstrate that the list is complete and accurate. Of the 280 projects on the list related to the 23 Crown-owned buildings we examined, 59 percent had been completed or substantially completed within the time frame required. Of the remaining projects, the Department deferred 12 percent and cancelled 4 percent; it was unable to provide sufficient documentation to demonstrate that another 4 percent had been completed or substantially completed. In addition, the Department has told us that, after further investigation during our audit, the remaining 21 percent of projects had been misclassified as high priority or included in the Building Management Plan in error. As a result, PWGSC cannot demonstrate that it is meeting its policy requirements to correct all high-priority deficiencies within the next fiscal year.

The departments and agencies have responded. All departments and agencies agree with our recommendations and have committed to implementing corrective action. In some cases, this action has already begun. Detailed responses can be found in the **Responses to Recommendations** section, starting on page 31.

Introduction

Roles and responsibilities for health and safety

3.1 Many parties share the responsibility for ensuring the health and safety of federal employees working in a federally administered office building. Operating and maintaining the buildings, their systems and equipment, and planning for fire safety and fire emergencies within the buildings are two critical government activities intended to reduce the risks to the health and safety of federal employees.

3.2 As an employer, each federal department or agency is responsible for the health and safety of its employees. Exhibit 3.1 summarizes the allocation within the Government of Canada of the primary roles and responsibilities for building operation and maintenance, and for fire safety, in federal office buildings.

Building operation and maintenance

3.3 As the designated federal custodian for general-purpose office facilities, Public Works and Government Services Canada (PWGSC) is responsible for ensuring a safe and healthy working environment for the tenants of its federal buildings. In addition, individual departments have a responsibility for the health and safety of their employees working in these buildings. PWGSC fulfills its responsibilities by ensuring that office buildings and their major systems and related equipment are properly operated and maintained. The condition of these buildings bears directly on the health and safety of the more than 230,000 federal employees who work in them. Proper management of a building's condition and operation reduces risks to the health and safety of its occupants.

3.4 As of 31 January 2008, PWGSC, through its Real Property Branch, administered more than 1,400 office buildings. The Crown owned approximately 20 percent of them, and leased the remaining 80 percent. In Crown-owned office buildings, PWGSC fulfills its responsibility to ensure a safe and healthy working environment by operating and maintaining buildings in adherence with applicable health and safety authorities and standards. In the case of many Crown-owned buildings, the Department discharges its responsibilities through contractual arrangements with third-party service providers. In leased buildings, the Department monitors building performance and ensures that landlords operate and maintain the buildings in

Exhibit 3.1 Shared responsibilities for building operation and maintenance and for fire safety

Entity	Roles and Responsibilities
Public Works and Government Services Canada (PWGSC)	<p>Provides office and common use accommodations for federal departments and agencies.</p> <p>Ensures, as the federal custodian for general-purpose office facilities, that buildings, their systems, and equipment adhere to applicable laws, regulations, policies, and standards, including those concerning health and safety.</p>
Property Manager	<p>Ensures that buildings under the custody of PWGSC are operated properly and maintained so they provide a safe and healthy work facility.</p>
Employer (Government Entities)	<p>Complies with prescribed policy and standards for fire safety, including the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization, the <i>Canada Labour Code</i>, Part II, and the <i>Canada Occupational Health and Safety Regulations</i>, Part XVII.</p>
Major Occupying Department	<p>As the department with the largest number of employees in a building, prepares and administers the building's fire safety plan, and establishes and administers the building's fire emergency organization, on behalf of all federal entities in the building.</p>
Other Occupying Departments	<p>Cooperate in creating and implementing the building's fire safety plan and the fire emergency organization (including providing necessary fire wardens).</p>
Human Resources and Skills Development Canada (HRSDC) (Fire Protection Services)	<p>Administers and enforces the Treasury Board Policy on Fire Protection, Investigation and Reporting and its related standards.</p> <p>Advises Treasury Board and government entities on fire protection policies (among various other fire protection services).</p>
HRSDC (Labour Program Regional and District Offices)	<p>Reviews and accepts fire safety plans departments provide under the requirements of the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization.</p>
Treasury Board of Canada Secretariat	<p>Provides strategic direction, leadership, advice, and assistance on issues related to the management of real property and fire safety planning.</p> <p>Develops and updates relevant policies and standards for the management of real property and for fire safety planning.</p> <p>Provides policy guidance and interpretation to departments on how to implement relevant policies and standards.</p> <p>Monitors how relevant policies are implemented and whether policy objectives are achieved.</p>

Sources: Treasury Board Policy Suite for the Management of Assets and Acquired Services; Treasury Board Policy on Fire Protection, Investigation and Reporting; Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization.

accordance with lease agreements that require adherence to these same authorities and standards.

3.5 PWGSC's budget for operating and maintaining the portfolio of assets its Real Property Branch manages is \$1.9 billion for the 2008–09 fiscal year (\$2.3 billion in the 2007–08 fiscal year).

3.6 Both the Treasury Board Policy on the Management of Real Property and the Common Services Policy clearly identify PWGSC as the department responsible for the administration of federal office facilities. To carry out its work, the Department developed a Facility Maintenance Policy and an Asset Performance Monitoring Policy. These policies serve as the basis for the Department's operation and maintenance practices related to office buildings.

3.7 PWGSC gathers information from many sources to help manage health and safety risks due to building condition, operation, and maintenance. Included in these sources is a series of reports that are used to provide up-to-date information on, among other things, a building's compliance with health and safety requirements:

- Building Condition Report,
- Building Performance Review, and
- Building Management Plan.

3.8 The Building Condition Report. PWGSC is required to prepare a Building Condition Report for Crown-owned buildings every five years, in accordance with departmental guidance. A report is not required for leased buildings. The report contains descriptions and assessments of the physical condition of each building component, as well as any recommended repairs or work projects. The Department uses building condition reports to develop its annual work plan.

3.9 The Building Performance Review. PWGSC is required to prepare a Building Performance Review every year for all Crown-owned buildings and once every two years for all leased buildings, in accordance with departmental guidance. The review focuses on the operating performance of building components, as opposed to their condition. The Department uses information from the review to develop the Building Management Plan.

3.10 The Building Management Plan. PWGSC develops a financial and operational work plan, known as the Building Management Plan, for each building. The Department prepares the plan annually for Crown-owned buildings, based on information from the Building Condition Report, the Building Performance Review, maintenance

records, and various other sources. The plan lists all scheduled projects, including building health and safety projects, for the planning year and beyond. The Department also develops a Building Management Plan for leased buildings every two years, which focuses on the funding needed for leased buildings for the coming years.

Fire safety planning

3.11 The *Canada Labour Code*, Part II, and the *Canada Occupational Health and Safety Regulations*, Part XVII, require that employers provide safety measures, including an emergency evacuation plan, for emergency situations in which employees might need to evacuate a workplace. Departments or agencies that occupy space in a building are therefore responsible for ensuring that their employees can safely evacuate a building in the event of a fire or other emergency.

3.12 The Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (the Standard) guides departments and agencies on planning and organizing for fire emergencies. It requires that all departments occupying the same building work together to ensure that the required fire emergency measures are established and implemented.

3.13 The senior officer of the major occupying department in each building has critical responsibilities under the Standard, including

- preparing and administering the building fire safety plan; and
- establishing and administering the building Fire Emergency Organization, on behalf of all federal entities in the building.

3.14 National Defence is not subject to the Standard, but is required to adhere to the provisions of the *Canada Labour Code*, Part II, and the *Canada Occupational Health and Safety Regulations*, Part XVII. National Defence's fire protection services are provided by the Canadian Forces Fire Marshall, who has the authority to issue orders, directives, and instructions to implement the Department's fire protection services policies.

Fire safety administration and enforcement

3.15 Human Resources and Skills Development Canada's (HRSDC's) Labour Program, through its Fire Protection Services Division and through its regional and district offices, is responsible for administering and enforcing fire protection policy and standards for all real or personal property under the administration and control of federal government departments and agencies, other than National Defence.

3.16 The Fire Protection Services Division (formerly called the Fire Commissioner of Canada) is the federal government's technical authority on fire safety. It provides advice and direction to departments and agencies to assist them in complying with the fire safety requirements of various policies and laws, including the *Canada Labour Code*, Part II, the *Canada Occupational Health and Safety Regulations*, Part XVII, the *National Fire Code of Canada*, the fire protection requirements of the *National Building Code of Canada*, and the requirements of the Treasury Board Policy on Fire Protection, Investigation and Reporting and its related standards.

3.17 The Labour Program's regional and district offices review and accept fire safety plans from federal departments or agencies, to make sure that the plans comply with the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization. They also provide technical advice on the development and content of fire safety plans.

Focus of the audit

3.18 Our audit focused on two major activities of the federal government that exist to reduce the risks to the health and safety of federal employees working in office buildings administered by Public Works and Government Services Canada:

- the operation and maintenance of the buildings, their systems, and equipment; and
- the planning for fire safety and fire emergencies within these buildings.

3.19 We looked at the systems and procedures related to operating and maintaining office buildings (both Crown-owned and leased) that PWGSC has put in place to reduce the risks to the health and safety of building occupants. We then looked at a sample of buildings to test whether the Department was adhering to key elements of these procedures.

3.20 We examined documentation provided by each of the major occupying departments in the sampled buildings, to determine whether they could demonstrate compliance with critical requirements of the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization.

3.21 Finally, we looked at the roles, responsibilities, and procedures of Fire Protection Services (a division within Human Resources and Skills Development Canada's Labour Program), which is charged with administering and enforcing the Treasury Board Standard for Fire

Safety Planning and Fire Emergency Organization. We also examined the systems and practices the Labour Program's regional and district offices had established to review and accept fire safety plans.

3.22 Our audit was not designed to assess the health and safety of a building but rather to examine the processes departments have in place to manage and mitigate risks to the health and safety of building occupants.

3.23 More details about the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Observations and Recommendations

Detailed responses to the recommendations can be found in the **Responses to Recommendations** section, starting on page 31.

Building operation and maintenance

The policy framework for managing federal real property is clear

3.24 The Treasury Board and the Treasury Board of Canada Secretariat are responsible for establishing a government-wide policy framework for the management and control of federal assets. We expected that the policy framework would establish clear roles, responsibilities, and accountabilities for operating and maintaining federally administered office buildings. We also expected that the policies would establish clear roles, responsibilities, and accountabilities for adhering to applicable health and safety authorities and standards.

3.25 Both the Treasury Board Policy on Management of Real Property and the Common Services Policy identify Public Works and Government Services Canada (PWGSC) as the designated custodian of general-purpose office facilities. The policy expectations of PWGSC are clearly outlined in these policies and in the Policy Framework for the Management of Assets and Acquired Services. This includes, for example, a requirement that decisions concerning the management of assets and acquired services address critical risks; comply with legislation, regulations, and policies; and rigorously assess the risks to health and safety.

3.26 We concluded that the policy framework that the Treasury Board established for the management of real property outlines clear accountabilities requiring that PWGSC provide a safe, healthy, and comfortable working environment for clients and tenants of the office buildings it administers. In Crown-owned buildings, the Department is

responsible for operating and maintaining all building systems properly. In leased buildings, PWGSC is responsible for ensuring that the landlord operates the building in accordance with lease covenants, and that tenants are satisfied with the services provided. Lease covenants require the building owner to adhere to all applicable health and safety requirements.

Public Works and Government Services Canada's policies are clear

3.27 A clearly established policy framework provides high-level direction and guidance to departments. We expected that Public Works and Government Services Canada would have established clear departmental policies and procedures for the day-to-day operation and maintenance of office buildings it administers, and that the guidance would adhere to Treasury Board policy requirements. Specifically, we expected that the departmental policies would include the required level of due diligence with respect to the health and safety of building occupants.

3.28 We looked at departmental policies designed to ensure that office buildings under PWGSC's administration are properly operated and maintained. These policies include the Asset Performance Monitoring Policy, as well as the Facility Maintenance Policy and accompanying guidelines.

3.29 We found that these policies are clear and provide appropriate guidance to staff. The policies provide the basis for operation and maintenance practices related to office buildings under PWGSC's administration. For example, the Facility Maintenance Policy requires the Department's Real Property Branch to meet the minimum requirements of all applicable mandated inspections and to provide funding for **mandated maintenance**, without exception. These policies are designed to ensure that the Department maintains all the buildings it administers with due diligence. Effectively managing mandated maintenance will protect the health and safety of building occupants and the investment in the facility.

Annual building management plans may not include all high-priority deficiencies

3.30 As part of our audit, we wanted to determine if Public Works and Government Services Canada follows the practices and procedures that it has established. These policies are designed to ensure that buildings are operated and maintained in a manner that minimizes risks to the health and safety of government employees. Regular and systematic monitoring and assessment of building condition and

Mandated maintenance—the minimum level of service activities that must be conducted on a routine basis for any federal government facility to comply with health, safety, and environmental standards mandated by applicable laws, codes, and regulations

operation also reduce the risk that buildings and their related systems and equipment are in poor condition or do not function properly.

3.31 We expected that for Crown-owned office buildings it administers, PWGSC would be able to demonstrate that it regularly and systematically assessed and monitored building condition and operating performance. Such an approach is important in ensuring that the Department identifies necessary repairs as a basis for taking corrective action. These assessments should identify risks to the health and safety of building occupants.

3.32 We tested whether PWGSC was applying key elements of the process for assessing and monitoring building condition and operating performance, for a sample of 48 office buildings under the Department's administration. In selecting our sample, we chose all buildings (eight) that provided office accommodation to 3,000 or more federal employees. In addition, we chose a random sample of 40 buildings from the 110 buildings that accommodated between 500 and 3,000 federal employees. Of the office buildings included in our sample, the Crown owned (or had the option to purchase at the end of its lease) 23. The Department manages the condition and operating performance of the buildings it may purchase as if they were already owned by the Crown. The Crown leased the other 25.

3.33 We found that the main tools the Department used to assess the condition and operating performance of a building—the Building Condition Report, the Building Performance Review, and the Building Management Plan—are being completed as required in the majority of cases.

3.34 Building Condition Report. PWGSC uses the Building Condition Report to assess the condition of a building. Departmental guidance requires that it be completed at least once every five years, unless the building is undergoing major renovations or is to be sold. In such circumstances, the Department may delay completion of a report, or in the case of buildings scheduled for disposal, a report is not required. Of the 23 Crown-owned office buildings in our sample, three were undergoing major renovations during the period covered by our audit and one was scheduled for disposal. No reports were prepared for those four buildings.

3.35 We found that a report had been completed in 16 (84 percent) of the remaining 19 Crown-owned buildings within the last five years, as the Department's guidance requires. The Department had completed

building condition reports for the remaining three buildings, but not within the required time frame.

3.36 Building Performance Review. PWGSC uses the Building Performance Review to assess the operating performance of a building. Departmental guidance requires that it be completed annually. We found that a review was completed annually during the two-year period under audit for 20 of the 23 Crown-owned buildings (87 percent) in our sample. In the remaining 3 buildings (13 percent), a review was completed for only one of the two years.

3.37 Building Management Plan. The Department carries out building condition and operating performance reviews to assess a building's compliance with, among other things, health and safety requirements, and to determine appropriate action when required. The Department identifies and prioritizes deficiencies in the building that require repairs or upgrades. These priorities form the basis from which the Department develops the annual Building Management Plan that lists, at the time it is prepared, the schedule of projects the Department will conduct in the building during the next fiscal year. Deficiencies that constitute a regulatory violation, or that, if not corrected within the year, will pose a risk to health, safety, or the environment, are classified as high priority in the plan.

3.38 These high-priority deficiencies differ from emergency deficiencies that may occur during a fiscal year. Emergency deficiencies require immediate action and are by their nature not incorporated in the Building Management Plan.

3.39 As part of our audit, we reviewed the steps PWGSC took to prepare the annual Building Management Plan. We wanted to determine if health and safety deficiencies identified in the Building Condition Report or Building Performance Review were included in the Building Management Plan. We expected that a plan would contain a comprehensive list of projects to correct identified health and safety deficiencies.

3.40 We noted a number of weaknesses in the processes PWGSC used to incorporate health and safety deficiencies into projects in the annual Building Management Plan. We are concerned that as a result of these weaknesses, the list of required repairs and upgrades related to identified health and safety deficiencies may not be accurate and complete.

3.41 In particular, we noted that the method the Department uses to prioritize deficiencies in building condition reports and building

performance reviews is not the same as the method the Department uses to develop its building management plans. As a result, there is no clear link between the deficiencies PWGSC identifies through the reports and the reviews and those work items listed in the plans. Without a clear link, it is difficult to ensure that all deficiencies, including those related to health and safety, have been scheduled for remedy in the annual building management plans. We also noted that PWGSC cannot demonstrate that it has an appropriate review and approval process in place to ensure that high-priority projects, including those related to health and safety, are consistently identified, challenged, and prioritized in the building management plans.

3.42 As a result of these weaknesses, we are unable to conclude whether all identified health and safety deficiencies have been scheduled for remedy in the annual building management plans.

3.43 Recommendation. Public Works and Government Services Canada should ensure that all high-priority deficiencies, including those related to health and safety, identified by its reviews and assessments of building condition and operating performance are included in its annual Building Management Plans.

The Department's response. The Department has responded and agrees with the recommendation. The Department's detailed response to recommendation 3.43 can be found in the **Responses to Recommendations** section, starting on page 31.

Not all identified high-priority deficiencies are corrected on a timely basis

3.44 Despite the weaknesses noted in the previous section, we wanted to determine whether the high-priority projects identified in the Building Management Plan, including those related to health and safety deficiencies, were completed in a timely manner. We expected that these projects would be completed, or substantially completed, within the next fiscal year.

3.45 We reviewed the Building Management Plan project listings associated with the 23 Crown-owned buildings in our sample. These listings included 280 projects needed to correct high-priority deficiencies. A high-priority deficiency is one that constitutes a regulatory violation or a risk to health, safety, or the environment if not corrected in the next fiscal year.

3.46 Of these 280 projects, we found that PWGSC was able to demonstrate that 166 (59 percent) were completed, or substantially completed, within the time frame required. Of the remaining projects,

the Department deferred 33 (12 percent) and cancelled 12 (4 percent) identified as high-priority regulatory violations or health, safety, and environmental projects. The Department was unable to provide sufficient evidence to demonstrate that 10 projects (4 percent) had been completed or substantially completed. In addition, the Department has told us that, after further investigation during our audit, the remaining 59 projects (21 percent) were misclassified as high priority or were included in the Building Management Plan in error. The high number of misclassifications supports our finding that PWGSC's business processes lack the appropriate review and approval to ensure that high-priority projects, including those related to health and safety, are consistently identified, challenged, and prioritized.

3.47 While the Department has told us that, during the course of a year, other health and safety deficiencies might arise and need to be corrected before those listed in the annual Building Management Plan, PWGSC does not document the rationale for such decisions. An up-to-date and comprehensive listing of high-priority projects, including those related to health and safety, is not maintained throughout the year. As such, the Department cannot demonstrate that it is meeting its policy requirement to correct all high-priority deficiencies within the next fiscal year.

3.48 Our audit was not designed to assess the health and safety of buildings, but rather to examine the practices and processes PWGSC has in place to manage and mitigate risks to the health and safety of building occupants. We are concerned that PWGSC is not exercising appropriate oversight and control over its practices and processes concerning the identification, prioritization, and correction of high-priority deficiencies, including those related to health and safety, in Crown-owned buildings it administers.

3.49 Recommendation. Public Works and Government Services Canada should ensure that it implements mechanisms to consistently identify, challenge, and prioritize high-priority deficiencies, including those related to health and safety, and that it corrects these deficiencies within the time frame it has established.

The Department's response. The Department has responded and agrees with the recommendation. The Department's detailed response to recommendation 3.49 can be found in the **Responses to Recommendations** section, starting on page 31.

PWGSC could not consistently demonstrate that it properly maintains fire safety equipment

3.50 PWGSC is responsible for ensuring that Crown-owned buildings under its administration are properly maintained in accordance with applicable health and safety legislation, codes, and regulations. We looked at whether the Department was conducting the mandated maintenance for certain fire safety equipment and systems on a routine basis. Maintenance of fire safety equipment is considered mandatory.

3.51 We expected that the Department would be able to demonstrate that it performed mandated maintenance for selected fire safety equipment in the 2007–08 fiscal year. We focused on fire safety equipment that has a direct link to the health and safety of building occupants, including

- fire alarm and voice communication systems (if applicable),
- sprinklers,
- emergency exit doors, and
- fire separation doors.

3.52 For 16 of the 23 Crown-owned buildings we looked at (70 percent), PWGSC was able to demonstrate that it had tested or inspected all selected fire safety equipment, as required, in the 2007–08 fiscal year. For the remaining 7 buildings (30 percent), while there was evidence of some maintenance activities, the Department was unable to demonstrate that it had completed all the required work, because departmental records were either insufficient or missing.

3.53 The Department was unable to consistently demonstrate that it is discharging its responsibilities for maintaining Crown-owned buildings. Keeping complete records demonstrates due diligence is being exercised in the maintenance of buildings and equipment in a manner that mitigates the risks to the health and safety of building occupants.

3.54 Recommendation. Public Works and Government Services Canada should strengthen its systems and practices so that it can consistently demonstrate that it is completing mandated maintenance as required.

The Department's response. The Department has responded and agrees with the recommendation. The Department's detailed response to recommendation 3.54 can be found in the **Responses to Recommendations** section, starting on page 31.

PWGSC does not consistently follow its own policies for leased buildings

3.55 PWGSC is required to ensure that the property managers and owners of the leased office buildings it administers operate and maintain the buildings in accordance with the terms and conditions of the leases. These terms and conditions include requirements for the safe and healthy operation and maintenance of the building, its systems, and its equipment.

3.56 We expected that the Department would have processes in place to monitor whether property owners were complying with lease requirements. We looked at the mechanisms in place in the Department to monitor whether leased buildings were being operated and maintained in accordance with the lease terms and conditions. We noted that departmental guidance requires that a Building Performance Review be carried out every two years in leased facilities. We also noted that the Department's Asset Performance Monitoring Policy requires a similar level of due diligence when assessing the performance of leased facilities as it does for the Crown-owned buildings it administers.

3.57 We found that the Department is not applying its policy with the same rigour for leased buildings as for Crown-owned buildings. Although PWGSC had conducted a Building Performance Review for all of the 25 leased buildings included in our sample in either the 2006–07 or 2007–08 fiscal year, it did not carry out these reviews in accordance with departmental policy. In 11 of the 25 cases (44 percent), many sections were left blank. In some cases, based on our review of departmental records, little if any assurance was obtained from building owners to support the Building Performance Review. The reviews do not adhere to the Department's own guidance, thus increasing the risk that health and safety issues in leased buildings will not be identified.

3.58 The Department states that property and facility managers also use a series of reactive processes in order to assess building operating performance in leased facilities. These processes include, to varying degrees,

- participation on tenant committees in buildings,
- review and follow-up of service calls to the National Service Call Centre,
- results of optional tenant satisfaction surveys, and
- informal building inspections.

3.59 We found that property and facility managers do not use these processes consistently. For leased buildings in our sample, we are unable to determine whether PWGSC is monitoring whether building owners are identifying and addressing health and safety issues in a timely manner. The Department is unable to demonstrate that it is administering leased office space in a manner that minimizes the risks to the health and safety of federal government employees working in these buildings. The practices it uses to oversee leased buildings do not adhere to its own guidance.

3.60 Recommendation. Public Works and Government Services Canada should carry out its responsibilities for leased buildings, as required by departmental policies.

The Department's response. The Department has responded and agrees with the recommendation. The Department's detailed response to recommendation 3.60 can be found in the **Responses to Recommendations** section, starting on page 31.

Fire safety planning and fire emergency organization

Roles and responsibilities for fire safety planning are not well understood

3.61 To minimize the risks to federal employees in the event of a fire, roles and responsibilities for fire safety planning must be clear and well understood. A lack of understanding and accountability increases the risk that fire safety planning measures will not be carried out. The health and safety of building occupants may be affected.

3.62 We expected that the roles and responsibilities for fire safety outlined in the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (the Standard) would be clear and well understood. We reviewed the Standard intended to guide departments and agencies on establishing and implementing fire safety measures. We reviewed the fire safety documentation each major occupying department provided relating to the building fire safety plan, fire emergency organization, and fire evacuation drills. We also communicated with officials from the major occupying department for each of the buildings in our sample.

3.63 We found that not all departments and agencies understood their fire safety planning roles and responsibilities outlined in the Standard. In many cases, the major occupying department did not carry out key requirements of fire safety planning, such as preparing and administering the fire safety plan, because either it was not aware of its responsibilities, or it believed that the building custodian or owner was responsible for these duties.

3.64 In many Crown-owned buildings, Public Works and Government Services Canada (PWGSC), the building custodian, appeared to have taken on the responsibility for the fire safety plan, with the major occupying department having little or no involvement. We noted that PWGSC has a departmental policy assuming responsibility for establishing an emergency evacuation plan in all Crown-owned properties that it administers. Taking on this responsibility contradicts the requirements of the Standard. In our opinion, this has contributed to the major occupying departments' confusion about roles and responsibilities for the fire safety plan. In February 2009, PWGSC revised its departmental policy. While we did not review it in detail, the new policy appears to be in line with the requirements of the Standard.

3.65 We also found a lack of awareness among major occupying departments in leased buildings concerning their roles and responsibilities, not only for preparing and administering the fire safety plan but also for developing the building fire emergency organization and maintaining fire drill records. Major occupying departments told us that it was difficult to apply the Standard in buildings where the federal government occupied only a small portion of leased space. We found that in these cases the major occupying department did not take a lead role for fire safety planning. Instead, the building custodian or owner appeared to handle these responsibilities. As some of these departments did not maintain their own fire safety records and could not obtain appropriate records from the building owner, they were unable to demonstrate that annual fire evacuation drills had taken place, as the Standard requires.

3.66 All federal departments have obligations as building occupants and as employers, as set out in the Standard and the *Canada Labour Code*, Part II. In circumstances where the federal employer department represents a small number of total occupants in a building, we expected that in order to discharge its duties, the department would have obtained a copy of the fire safety plan from the building owner and assured itself of the plan's completeness. We also expected that the department would have ensured that required fire drills and fire emergency organization meetings took place, and that complete records of such events were maintained to demonstrate that the department had discharged its duties as an employer.

3.67 Departments and agencies need to be aware of their responsibilities for fire safety planning under the Standard, in order to exercise due diligence in ensuring that either they meet those responsibilities or ensure that a third party, such as the building

custodian, meets them. Confusion about roles and responsibilities for fire safety planning can lead to situations where no department takes them on. As a result, the health and safety of building occupants is at risk in the event of an emergency that requires an evacuation. Our case study about 66 Slater Street illustrates the importance of clarifying roles and responsibilities.

Case Study—66 Slater Street

Confusion in determining the major occupying department resulted in fire safety responsibilities not being discharged

According to Public Works and Government Services Canada's (PWGSC's) database of real property, as at 31 January 2008, the office building located at 66 Slater Street in downtown Ottawa housed approximately 800 federal employees from a number of departments. They included National Defence, the Privy Council Office, and Veterans Affairs Canada.

We expected that the major occupying department in the building would be able to demonstrate that it complied with the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (the Standard) for the period under audit, 1 April 2006 to 31 March 2008.

Both the Privy Council Office and Veterans Affairs Canada told us about discussions held in October 2006 to determine which entity was the major occupying department and thus responsible for the building's fire safety planning. We found disagreement among the departments concerning which of them had the most employees in the building. The Privy Council Office informed us that it had no reasonable grounds to assume, and never considered itself to be, the major occupying department during any portion of the period under audit. Veterans Affairs Canada confirmed to us that at no time did it assume or acknowledge responsibility for fire safety planning in the building. We noted that the Standard does not guide departments on how and when to calculate which entity is the major occupying department in a building, and this may have contributed to the confusion.

During the period under audit, no planned annual fire evacuation drills occurred in the building. A building fire emergency organization was not established and an approved fire safety plan was not in place for the building. The confusion among the departments resulted in no department assuming the fire safety planning responsibilities of the major occupying department. As such, fire safety planning risks were not addressed for the building for almost a three-year period, thereby endangering the health and safety of the federal employees located at 66 Slater Street.

National Defence has confirmed that since February 2008, it is the major occupying department and it has taken responsibility for the fire safety duties in the building. We noted that since taking on the responsibility, National Defence has demonstrated that it is working toward establishing an up-to-date and approved fire safety plan. A full building fire evacuation drill took place in December 2008.

3.68 The Treasury Board of Canada Secretariat has acknowledged that the language in the Standard may lead to uncertainty or ambiguity about roles and responsibilities. Over the past few years, the Secretariat has been updating the current Standard for Fire Safety

Planning and Fire Emergency Organization and plans to issue a new suite of fire-related policy instruments that should clarify employer, custodian, and tenant responsibilities.

3.69 Recommendation. The Treasury Board of Canada Secretariat should complete its updates to the Standard for Fire Safety Planning and Fire Emergency Organization to clarify roles and responsibilities of the building custodian and tenant departments or agencies for fire safety planning.

The Secretariat's response. The Secretariat has responded and agrees with the recommendation. The Secretariat's detailed response to recommendation 3.69 can be found in the **Responses to Recommendations** section, starting on page 31.

3.70 Recommendation. Public Works and Government Services Canada (PWGSC) should work with other government departments to determine the appropriate clarification to be included in lease agreements to facilitate cooperation between building owners and federal tenants regarding fire safety planning and fire emergency organizations. For facilities under existing lease agreements, PWGSC should work with building owners to ensure that tenant departments are provided the information needed to meet their obligations under the Standard for Fire Safety Planning and Fire Emergency Organization.

The Department's response. The Department has responded and agrees with the recommendation. The Department's detailed response to recommendation 3.70 can be found in the **Responses to Recommendations** section, starting on page 31.

Fire safety plans do not meet review and acceptance requirements

3.71 A fire safety plan that outlines, among other things, the procedures employees should follow in case of an evacuation, is an essential tool to ensure a safe and healthy workplace. In the event of an emergency that requires evacuation or intervention by rescuers, a complete and accurate fire safety plan is essential to ensure the safe and timely evacuation of a building. The *Canada Labour Code*, Part II, and the *Canada Occupational Health and Safety Regulations*, Part XVII, also require employers to prepare an emergency evacuation plan.

3.72 According to the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization, the senior officer shall prepare a fire safety plan for all **Government of Canada properties**. In buildings occupied by a number of departments, the senior officer of

the major occupying department is responsible for preparing and administering the fire safety plan.

3.73 As part of our audit, we reviewed the fire safety plans for each of the buildings included in our sample to ensure that the plans were prepared and reviewed according to the Standard. In 3 of the buildings we looked at, each consisting of 3 office towers, each tower is treated separately for fire safety planning. As a result, the 48 buildings included in our audit were treated as 54 buildings when determining compliance with the Standard's requirements. We found that a plan existed for 53 of the 54 buildings in our audit. No fire safety plan existed for the remaining building.

3.74 In order to ensure the completeness and accuracy of fire safety plans, the Standard requires that

- the senior officer of the major occupying department review and approve the plan,
- the plan be prepared in cooperation with the local fire department, and
- the plan be submitted to a regional or district office of Human Resources and Skills Development Canada's Labour Program for review and acceptance.

3.75 National Defence is the only occupant in two of the buildings we examined. Although National Defence is not subject to these requirements, it is required by the *Canada Labour Code*, Part II, and the *Canada Occupational Health and Safety Regulations*, Part XVII, to prepare an emergency evacuation plan.

3.76 We noted that for 42 of 54 buildings included in our audit (78 percent), no evidence was provided that the senior officer had reviewed and approved the fire safety plan by the end of the period under audit. In 10 of the 54 buildings (19 percent), evidence was provided that the senior officer reviewed and approved the plan. The remaining 2 buildings are fully occupied by National Defence, which is not subject to this requirement. We also noted that 8 fire safety plans were subsequently reviewed and approved by the senior officer during the course of our audit.

3.77 We found that for 35 of 54 buildings (65 percent), no fire safety plan had been submitted by the end of the period under audit to the Labour Program for its review and acceptance that the content of the plan was in accordance with the Standard. In 17 of the 54 buildings (31 percent), evidence was provided that the fire safety plan was sent

to the Labour Program. National Defence, which is not subject to this requirement, stated that its Chief Fire Inspector had reviewed the fire safety plans for the 2 buildings it fully occupies. However, National Defence was unable to demonstrate that this review occurred. In addition, we noted that 8 fire safety plans were submitted to the Labour Program during the course of our audit.

3.78 The Standard requires cooperation with the local fire department. The purpose of this is to ensure that the fire safety plan includes the necessary information used by the fire department in the event of a fire emergency. We found that in 17 out of 54 cases (31 percent), there was no evidence that the fire safety plan had been prepared in cooperation with the local fire department by the end of the period under audit. In 35 of the 54 buildings (65 percent), evidence was provided to demonstrate that the fire safety plan was prepared in cooperation with the local fire department. Although National Defence is not subject to this requirement, it stated that the local fire department had approved the fire safety plan template used in the 2 buildings it fully occupies, but it was unable to provide evidence of this approval. In addition, we noted that 3 fire safety plans were prepared in cooperation with the local fire department during the course of our audit.

3.79 In the majority of cases, the senior officers of the major occupying departments have not complied with the requirements for review and acceptance of fire safety plans. As such, they have not exercised the necessary duty of care in discharging their responsibilities under the Standard. In the absence of obtaining the necessary reviews and approvals, the fire safety plans may not be accurate or complete.

3.80 Recommendation. Departments should ensure that fire safety plans are prepared and administered in accordance with established federal legislation and Treasury Board policies and standards.

The departments' response. All entities identified as a major occupying department in our audit agreed with the recommendation and agreed to ensure that fire safety plans are prepared and administered in accordance with established federal legislation and Treasury Board policies and standards. See individual entity responses to recommendation 3.80 in the **Responses to Recommendations** section, starting on page 31.

Not all required fire evacuation drills are taking place

3.81 Regular fire evacuation drills are a critical aspect of fire safety planning. A fire evacuation drill trains building occupants about the procedures they should follow in an emergency and tests the adequacy of the fire safety plan.

3.82 The Standard for Fire Safety Planning and Fire Emergency Organization (the Standard) requires departments to conduct at least one fire evacuation drill each year, involving all occupants in all federally occupied areas of buildings. The *Canada Labour Code*, Part II, and the *Canada Occupational Health and Safety Regulations*, Part XVII, also require employers to hold at least one evacuation drill every year for its employees in the building.

3.83 To determine whether the necessary fire evacuation drills were taking place, we examined the fire evacuation drill records the major occupying department provided for each of the buildings included in our audit. We expected that the major occupying department would be able to demonstrate that the required fire evacuation drills had taken place, and that it maintained records of such fire evacuation drills, as the Standard prescribes.

3.84 We found that, in 18 of the 54 buildings (33 percent), the major occupying department could not demonstrate that a fire evacuation drill involving all occupants took place each year during the period 1 April 2006 to 31 March 2008. In 9 of these buildings, a fire evacuation drill did not take place each year. In the remaining 9 cases, the major occupying department told us that a fire evacuation drill occurred; however, it could not provide sufficient records to demonstrate that such a drill took place each year as the Standard requires. We noted that during our audit, 15 of these 18 buildings provided sufficient records to demonstrate that a fire evacuation drill took place after 31 March 2008.

3.85 The Standard also requires additional drills for large buildings with higher occupancy. These buildings, called high buildings, are defined in the *National Building Code of Canada*. There were 31 high buildings among the 54 buildings we examined. National Defence, which is not subject to this requirement, fully occupies one of these buildings. We found that, in the remaining 30 high buildings, the additional required drills were not taking place.

3.86 Due to the serious nature of our findings in this area, we sent letters to the Deputy Minister of the major occupying department in each of the buildings that could not demonstrate that an annual fire

evacuation drill had occurred in the period under audit and had not carried out a drill during the course of our audit. We also sent letters for each of the high buildings owned by the Crown or in which the federal government occupied the majority of leased space, and in which the additional high-building drills were not taking place. The letters concerned 26 of the 31 high buildings. All entities have responded, acknowledging the importance of the situation, and outlining actions already taken or planned in the near future to correct the deficiencies found. The major occupying department in three of the high buildings told us that it was unable to perform some of the additional high-building drills due to the limited capabilities of the building's **single-stage fire alarm system**.

3.87 Failure to conduct the required evacuation drills increases the risk that occupants will not be able to evacuate the building safely in an emergency. This failure is putting employees' safety at risk.

3.88 Recommendation. Departments should ensure that all evacuation drills are held as required by federal legislation and Treasury Board policies and standards.

The departments' response. All entities identified as a major occupying department in our audit agreed with the recommendation and agreed to ensure that all evacuation drills are held as required by federal legislation and Treasury Board policies and standards. See individual entity responses to recommendation 3.88 in the **Responses to Recommendations** section, starting on page 31.

Fire emergency organizations are not meeting to discuss their roles and responsibilities

3.89 The Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization requires that a fire emergency organization be established and administered by the senior officer in each building. The *Canada Labour Code*, Part II, and the *Canada Occupational Health and Safety Regulations*, Part XVII, also require the establishment of such an organization to plan for emergencies, including fire. A fire emergency organization comprises volunteer members located in the building and is responsible for fire safety planning activities.

3.90 We looked at documentation provided by the major occupying department related to these fire emergency organizations in the buildings included in our audit. We expected that an organization would exist and that there would be evidence that annual meetings took place to discuss the members' roles and responsibilities under the fire safety plan, as the Standard requires.

Single-stage fire alarm system—a system that transmits an alarm signal throughout the building to warn the building occupants that a fire emergency exists and that all occupants should evacuate the building. A single-stage system does not have the capability of transmitting the alarm signal only to selected floors or zones within a building as does a two-stage alarm.

3.91 We found that a fire emergency organization existed in 51 of the 54 buildings we examined (94 percent). In 3 buildings, the major occupying department could not provide sufficient evidence that such an organization existed. In only 10 of 54 buildings (19 percent), evidence of an annual meeting including all members of the organization was provided. In the remaining buildings, many major occupying departments told us that an annual meeting took place; however, they could not provide sufficient records to demonstrate that such meetings took place, as the Standard requires.

3.92 Ensuring that all members of the fire emergency organization clearly understand their roles and responsibilities in the event of an emergency is critical. A well-informed fire emergency organization is better prepared to ensure the safe and timely evacuation of building occupants. Maintaining complete records of meetings provides evidence of due diligence exercised on the part of the senior officer and the fire emergency organization.

3.93 Recommendation. Departments should ensure that building fire emergency organizations are established and administered as required by federal legislation and Treasury Board policies and standards.

The departments' response. All entities identified as a major occupying department in our audit agreed with the recommendation and agreed to ensure that building fire emergency organizations are established and administered as required by federal legislation and Treasury Board policies and standards. See individual entity responses to recommendation 3.93 in the **Responses to Recommendations** section, starting on page 31.

Fire safety administration and enforcement

Human Resources and Skills Development Canada does not fully administer and enforce the Treasury Board Standard

3.94 Human Resources and Skills Development Canada's (HRSDC's) Labour Program plays a key role in fire safety administration and enforcement. The Treasury Board of Canada Secretariat has delegated responsibility for administering and enforcing the Standard for Fire Safety Planning and Fire Emergency Organization (the Standard) to Fire Protection Services, a division within the Labour Program. The Labour Program's regional and district offices are responsible for reviewing and accepting building fire safety plans to make sure they comply with the Standard.

3.95 We expected that Fire Protection Services would have systems and practices in place that would allow it to determine, government-

wide, whether departments and agencies were carrying out their obligations under the Standard. We also expected that the regional and district offices would have systems and practices in place to review and accept the fire safety plans.

3.96 We reviewed the practices and procedures that Fire Protection Services and the regional and district offices established to discharge their obligations under the Standard. We also examined the files related to the 54 buildings included in our audit, to determine whether the regional and district offices had reviewed and accepted the fire safety plans for these buildings, as the Standard requires.

3.97 We found that Fire Protection Services, which is tasked with administering and enforcing the Standard, does not directly oversee the regional and district offices that review and accept fire safety plans. In addition, Fire Protection Services does not obtain information from departments on their compliance with the requirements for fire evacuation drills. Accordingly, it is not possible for Fire Protection Services to determine if departments and agencies are meeting the requirements of the Standard.

3.98 We also found that the regional and district offices inadequately monitor the review and acceptance of fire safety plans. Systems and practices have not been put into place to provide accurate information concerning which buildings satisfy the Standard's requirements. No evidence was provided of a systematic process to track buildings that have or have not submitted plans or to follow up when plans were considered inadequate.

3.99 Labour Program officials told us that they receive a fire safety plan from a department as a result of a fire inspection conducted by the regional or district offices or when the department submits one. Since 2004, a fire inspection was completed in 32 of the 54 buildings (59 percent) in our audit. We noted that 18 of these inspections contained no observations about the existence of a fire safety plan, while 14 of these inspections resulted in a request that the building fire safety plan be submitted to a regional or district office for review and acceptance. In 7 of these 14 cases, departments and agencies have not yet submitted a fire safety plan. The Labour Program did not seek further compliance with the Standard nor did it escalate the issue, as its own departmental policies require. At the time of our audit, it had been, on average, a year and half since the Labour Program requested submission of these fire safety plans.

3.100 We noted that the regional and district offices were able to provide evidence that the fire safety plan had been reviewed in only 19 of 54 of the buildings (35 percent) that we examined (15 plans were reviewed by 31 March 2008 and an additional 4 plans were reviewed during the course of our audit). The offices have accepted the fire safety plans for only 10 of these buildings. Deficiencies were identified in the plans of the remaining 9 buildings. The offices provided no evidence of any follow-up with the federal departments or agencies asking them to resubmit deficient fire safety plans, in order to ensure that corrective action had been taken. At the time of our audit, it had been, on average, two years since deficiencies were identified in these plans.

3.101 In addition to a lack of monitoring and tracking concerning the completeness of fire safety plan reviews, we found little or no evidence that Fire Protection Services enforced the Standard. Labour Program officials told us that the Department seeks voluntary compliance with the Standard. The Department takes a reactive approach concerning the review and acceptance of fire safety plans and there is no oversight of fire evacuation drills. In our view, this is not sufficient to administer and enforce the Standard.

3.102 HRSDC's Labour Program is not fully discharging its responsibilities under the Standard for Fire Safety Planning and Fire Emergency Organization (the Standard). The Department does not follow up, in a timely manner, in situations of non-compliance, and it does not obtain the information it needs to administer and enforce the Standard. The Labour Program has not reported to the Treasury Board of Canada Secretariat concerning whether departments and agencies are complying with the Standard.

3.103 Recommendation. Human Resources and Skills Development Canada should establish the systems and practices it needs to administer and enforce the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization.

The Department's response. The Department has responded and agrees with the recommendation. The Department's detailed response to recommendation 3.103 can be found in the **Responses to Recommendations** section, starting on page 31.

3.104 Recommendation. The Treasury Board of Canada Secretariat should ensure that the government's policy objectives are being met, by obtaining timely and sufficient information from Human Resources and Skills Development Canada to ensure that it administers and

enforces the Fire Protection, Investigation and Reporting Policy and its related standards.

The Secretariat's response. The Secretariat has responded and agrees with the recommendation. The Secretariat's detailed response to recommendation 3.104 can be found in the **Responses to Recommendations** section, starting on page 31.

Conclusion

3.105 Our audit noted that Public Works and Government Services Canada (PWGSC) has established clear direction and guidance for conducting inspections of building condition and performance. However, we noted that the Department does not consistently follow these required practices. As a result, PWGSC is not able to consistently demonstrate, for the office buildings it administers, that the Department has effectively managed the risks related to the health and safety of building occupants.

3.106 PWGSC is not consistently carrying out repairs and upgrades it identified to correct high-priority deficiencies so as to reduce risks to the health and safety of building occupants. Of the 280 projects identified by the Department to correct high-priority deficiencies in the 23 Crown-owned buildings we examined, 59 percent were completed or substantially completed within the time frame required. The Department deferred 12 percent to future years and cancelled 4 percent, despite these projects having been identified by PWGSC as high priority. The Department was unable to provide sufficient documentation to demonstrate that 4 percent of projects had been completed or substantially completed. In addition, the Department told us that, after further investigation during our audit, the remaining 21 percent of projects were misclassified as high priority or were included in the Building Management Plan in error. As a result of the lack of review and approval of these projects, PWGSC cannot demonstrate that it is meeting its policy requirements of correcting all high-priority deficiencies within the next fiscal year.

3.107 Departments were not able to demonstrate that they are complying with key requirements of the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (the Standard). The majority of fire safety plans for buildings in our audit have not been reviewed and approved, as required. Further, for 33 percent of the 54 buildings included in our audit, departments were unable to demonstrate that they performed fire evacuation drills annually, as the

Standard and federal legislation require. In addition, we noted that in almost all cases we reviewed, departments that occupy high buildings are not carrying out the additional drills required by the Standard. Failure to conduct the required fire drills increases the risk that occupants will not be able to evacuate the building safely in an emergency.

3.108 We noted that in response to fire safety planning concerns we raised during our audit, and in response to letters we sent to departments drawing particular attention to deficiencies in conducting fire drills, departments began to take corrective action to address the deficiencies related to fire evacuation drills and the review and approval of fire safety plans.

3.109 Human Resources and Skills Development Canada's Labour Program cannot demonstrate that it administers and enforces the Standard for Fire Safety Planning and Fire Emergency Organization effectively. Specifically, we noted management systems have not been established to ensure that fire safety plans are reviewed and accepted for all federally occupied buildings. The fire safety plans for only 35 percent of buildings included in our audit had been reviewed. We further noted that the Labour Program does not have the information it needs to report to the Treasury Board of Canada Secretariat on government-wide compliance with the Standard.

Responses to Recommendations

The following is a list of detailed responses to the recommendations found in Chapter 3. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
Building operation and maintenance	
<p>3.43 Public Works and Government Services Canada should ensure that all high-priority deficiencies, including those related to health and safety, identified by its reviews and assessments of building condition and operating performance are included in its annual Building Management Plans. (3.30–3.42)</p>	<p>Public Works and Government Services Canada's response. Agreed. The Department recognizes that its processes for ensuring inclusion of high-priority deficiencies, including those related to health and safety issues, in its building management plans could be more robust. Improvements to the processes will include a requirement to document the source of identification of high-priority deficiencies added to the annual Building Management Plan, as well as a requirement to document the evidence to support the removal of a high-priority deficiency from the Plan. This will ensure that clear linkages will exist between the building condition and operating performance reviews and the Building Management Plan. These actions will be completed by 31 August 2009.</p>
<p>3.49 Public Works and Government Services Canada should ensure that it implements mechanisms to consistently identify, challenge, and prioritize high-priority deficiencies, including those related to health and safety, and that it corrects these deficiencies within the time frame it has established. (3.44–3.48)</p>	<p>Public Works and Government Services Canada's response. Agreed. The Department recognizes that it must strengthen its quality assurance process to ensure that projects classified as high priority are consistently identified, challenged, and prioritized. Steps have been taken to provide clarification to operational staff on the classification of high-priority deficiencies, including those related to health and safety issues. Further, a process to ensure a more robust challenge and review of deficiencies classified as high priority will be implemented. This will ensure that high-priority deficiencies are included in the annual building management plans.</p> <p>The Department uses the Building Management Plan as a planning tool. Once finalized, some projects require further investigation to confirm the extent of the deficiency and the time frame for completion. We will introduce a requirement for any changes to projects included in the Building Management Plan as a result of further investigation, to be documented.</p>

Recommendation	Response
3.49 (continued)	<p>We will also introduce a requirement for the correction of deficiencies to be documented, including any risk mitigation measures taken or projects completed. Finally, action will be taken to monitor the correction of identified deficiencies within the established time frames. This will ensure that we can demonstrate that corrective action has been taken within the established time frames. These actions will be completed by 31 March 2010.</p>
<p>3.54 Public Works and Government Services Canada should strengthen its systems and practices so that it can consistently demonstrate that it is completing mandated maintenance as required. (3.50–3.53)</p>	<p>Public Works and Government Services Canada's response. Agreed. The Department recognizes that through its record-keeping processes it is not always able to provide sufficient evidence that mandated maintenance has been completed. Processes and procedures to ensure the documentation of the completion of mandated maintenance for Crown-owned and Alternate Form of Delivery managed buildings will be modified accordingly. This will ensure that we can demonstrate that mandated maintenance is being completed as required. These actions will be completed by 31 October 2009, with ongoing monitoring conducted on a semi-annual basis thereafter.</p>
<p>3.60 Public Works and Government Services Canada should carry out its responsibilities for leased buildings, as required by departmental policies. (3.55–3.59)</p>	<p>Public Works and Government Services Canada's response. Agreed. At the present time, the Asset Performance Monitoring Policy governs the management of both Crown-owned and leased buildings and requires the same approach to be applied for managing these two types of assets. The Department applies the same rigour to the management of leased buildings as to Crown-owned buildings; however, the approach applied is different due to the roles and responsibilities outlined in the contractual agreement between the lessor and the lessee (i.e., the lease agreement). The Department acknowledges that its Asset Performance Monitoring Policy is no longer current and does not reflect the roles and responsibilities outlined in the contractual agreements. The Asset Performance Monitoring Policy will be revised to require an approach to managing leased buildings that reflects current best practices. This will ensure that our approach will be consistent with our Policy. This action will be completed by 31 December 2009.</p>

Recommendation	Response
Fire safety planning and fire emergency organization	<p>Treasury Board of Canada Secretariat's response. Agreed. The Treasury Board of Canada Secretariat is completing work on the new Standard on Building Emergency Response Organizations, which will clarify roles and responsibilities of the building custodian and tenant departments or agencies for the establishment and implementation of fire emergency organizations. The new Standard will take effect on the same date as the new Treasury Board Occupational Health and Safety Policy, which is expected to come into effect in fall 2009.</p>
<p>3.69 The Treasury Board of Canada Secretariat should complete its updates to the Standard for Fire Safety Planning and Fire Emergency Organization to clarify roles and responsibilities of the building custodian and tenant departments or agencies for fire safety planning. (3.61–3.68)</p> <p>3.70 Public Works and Government Services Canada (PWGSC) should work with other government departments to determine the appropriate clarification to be included in lease agreements to facilitate cooperation between building owners and federal tenants regarding fire safety planning and fire emergency organizations. For facilities under existing lease agreements, PWGSC should work with building owners to ensure that tenant departments are provided the information needed to meet their obligations under the Standard for Fire Safety Planning and Fire Emergency Organization. (3.61–3.68)</p>	<p>Public Works and Government Services Canada's response. Agreed. The Department will work with Justice Canada, the Treasury Board of Canada Secretariat, and the Human Resources and Skills Development Canada Labour Program to determine the appropriateness of amending its leasing documents to include a requirement to facilitate cooperation between building owners and federal tenants regarding fire safety planning and emergency organizations. This collaborative approach will include a possible means to provide clarification for existing leases related to fire emergency planning and fire emergency organization. These actions will be completed by 31 March 2010.</p>
<p>3.80 Departments should ensure that fire safety plans are prepared and administered in accordance with established federal legislation and Treasury Board policies and standards. (3.71–3.79)</p>	<p>Canada Border Services Agency's response. The Agency agrees with the recommendation. The Agency is reviewing roles and responsibilities to ensure that all fire safety plans are current and conform to policies and standards.</p> <p>Canada Revenue Agency's response. Agreed. The Agency already has safety plans in place and is committed to administering these plans as required by federal legislation and Treasury Board policies and standards.</p>

Recommendation**Response**

3.80 (continued)

Canadian Food Inspection Agency's response. The Agency agrees with this recommendation. In accordance with established federal legislation and Treasury Board policies and standards, the Fire Safety Plan has been reviewed by the Executive Director, Assets and Security Management Directorate, and was submitted to Human Resources and Skills Development Canada in July 2008.

Canadian Heritage's response. Agreed. In January 2009, Public Works and Government Services Canada received Human Resources and Skills Development Canada (HRSDC) Labour Program approval of the November 2007 Fire Safety Plan for Les Terrasses de la Chaudière, located at 15 and 25 Eddy, 10 Wellington, and 1 Promenade du Portage.

Canadian Heritage is presently making improvements on how files are documented and will finalize all future official departmental documents with appropriate approvals and signatures.

Canadian Institutes of Health Research's response. The Canadian Institutes of Health Research agrees with the recommendation and will work with its landlord, within the constraints of the terms of its lease, to ensure that the building's fire safety plans meet these requirements.

Canadian Radio-television and Telecommunications Commission's response. The Commission agrees with the recommendation and has already taken or will take corrective action.

Citizenship and Immigration Canada's response. Agreed. The Department's Fire Plan had been reviewed by the City Fire Chief; however, it was not previously reviewed and approved by the senior officer nor was it submitted to Human Resources and Skills Development Canada (HRSDC) for review and acceptance.

The senior officer will review and approve the recent modifications made to the existing Fire Safety Plan, which will include the requirement of additional drills for high-rise buildings.

Once approved, the plan will be submitted to HRSDC Labour Program for review and acceptance. The target completion date is 31 March 2009.

Recommendation**Response**

3.80 (continued)

Department of Justice Canada's response. Agreed. Both Justice Canada sites included in this audit now meet this requirement. The senior officer of the Exchange Tower has since reviewed and approved the fire safety plan on 16 October 2008, and the plan was submitted to Human Resources and Skills Development Canada on 22 October 2008 and has been reviewed. Evidence was included in our response to the OAG on 21 January 2009.

Fisheries and Oceans Canada's response. The Department agrees with this recommendation.

We duly noted the audit results and comments previously provided by the OAG concerning the preparation and administration of fire safety plans and we have taken measures to ensure that we comply with all established legislation, policies, and standards by 31 December 2009.

Foreign Affairs and International Trade Canada's response. The Department concurs with the recommended action, and agrees to ensure that the administration of the fire safety plans complies with all federal legislation and Treasury Board policies and standards. A senior officer for 111 Sussex has now been appointed and the existing fire safety plans have been reviewed and approved.

Human Resources and Skills Development Canada' response. Agreed. We are in the process of collecting information for all Human Resources and Skills Development Canada buildings and locations across the country that require a fire safety plan under the Treasury Board Standard. The review will be completed by the end of April 2009. As part of that review, an assessment will be completed to ensure that all our buildings are compliant and have fire safety plans in place.

Immigration and Refugee Board of Canada's response. Agreed. The Board will ensure that its fire plan is signed and approved by the Regional Director.

When the fire plan is modified, the Board will ensure that it is resubmitted properly to Human Resources and Skills Development Canada for review and approval.

Indian and Northern Affairs Canada's response. The Department agrees with the recommendation. It will ensure, when preparing and administrating fire safety plans, that they comply with established federal legislation and Treasury Board policies and standards.

Recommendation	Response
3.80 (continued)	<p>Industry Canada's response. Agreed. The Department assumed responsibility as the major occupying department in Heritage Building on 1 February 2007. Since then, first priority was given to transforming a partially staffed Fire and Emergency Organization into a fully revamped and trained unit. The second priority was to improve the existing fire safety plan by reviewing it and making it compliant with the Treasury Board Standard. The fire safety plans for the C.D. Howe Building and Heritage Building were sent to Human Resources and Skills Development Canada in November 2008 for approval.</p>
	<p>Once the review process is completed, it will be sent to the senior officer for approval.</p> <p>Library and Archives Canada's response. Agreed. The Fire Safety Plan was approved in September 2008 for this facility and it was deemed to meet Treasury Board policies and standards. The entity will continue to administer it in accordance with those policies and standards.</p>
	<p>National Defence's response. Agreed. The Chief Fire Inspector for the National Capital Region will ensure that all fire safety plans within the portfolio are reviewed and signed by the Chief Fire Inspector and by the Senior Officer responsible for the particular building by October 2009. Additionally, comments will be sought from the local fire departments.</p>
	<p>Natural Resources Canada's response. We concur with the recommendation. The Department will prepare and administer fire safety plans in accordance with established federal legislation and Treasury Board policies and standards by March 2010.</p>
	<p>Privy Council Office's response. Agreed. For buildings where the Privy Council Office (PCO) is the majority tenant, PCO will prepare and administer fire safety plans and share the information with the other tenants.</p>
	<p>For buildings where PCO is not the majority tenant, PCO will obtain a copy of the fire safety plans established and administered by the majority tenant.</p>
	<p>Public Works and Government Services Canada's response. Agreed. The Department will ensure that fire safety plans are prepared in all buildings for which it has the largest number of employees by 1 June 2009. The Department has implemented a</p>

Recommendation	Response
3.80 (continued)	<p>national tracking system to monitor compliance with Treasury Board Policy to ensure that remedial action is taken in a timely manner. This will ensure that fire safety plans are prepared and administered in accordance with applicable legislation, policies, and standards.</p>
	<p>Royal Canadian Mounted Police's response. Agreed. The Royal Canadian Mounted Police concur that the Fire Safety Plan should be created by the senior person in the facility in conjunction with Public Works and Government Services Canada, the building owner, and the fire department. Templates of fire safety plans will be made available by the end of the fiscal year 2009–10 on the Infoweb and provided to divisions to assist in the consistency and format of the fire safety plans. Human Resources and Skills Development Canada will review the fire safety plans.</p>
	<p>Transport Canada's response. We fully agree with this recommendation. We anticipate having our Fire Safety Plan reviewed for acceptance by Human Resources and Skills Development Canada and signed off by the Deputy Minister by the end of May 2009.</p>
<p>*Note: Effective February 2009, the Treasury Board of Canada Secretariat (TBS) became the major occupying department in one of the buildings included in our audit. As it has assumed responsibility for taking the required corrective action, TBS has responded to the recommendation instead of the Department of Finance Canada.</p>	<p>Treasury Board of Canada Secretariat's response.* Agreed. The Fire Safety Plan for L'Esplanade Laurier has been revised and submitted to Human Resources and Skills Development Canada for approval.</p>
	<p>Veterans Affairs Canada's response. Agreed. The Department will undertake a comprehensive review of all sites occupied by the Department nationally to ensure that the requirements for the preparation and administration of fire safety plans in accordance with established federal legislation and Treasury Board policies and standards are met.</p>
	<p>Canada Border Services Agency's response. The Agency agrees with the recommendation. The Agency will ensure that evacuation drills are held regularly as required by policies and standards.</p>
	<p>Canada Revenue Agency's response. Agreed. The Agency will conduct evacuation drills as required by federal legislation and Treasury Board policies and standards.</p>

Recommendation**Response**

3.88 (continued)

Canadian Heritage's response. Agreed. In April 2009, the Department will consult the Fire Protection Services at Human Resources and Skills Development Canada (HRSDC) to determine how the Department can meet the requirements of the Standard for additional staged evacuations (two-stage alarm drills) with the existing single-stage fire alarm and voice communication systems.

The Department will increase the number of building evacuation drills from one to two per year beginning in 2009 and until such time as consultations with HRSDC take place to identify and implement appropriate procedures and training, or until the fire alarm system is upgraded.

Canadian Institutes of Health Research's response. The Canadian Institutes of Health Research agrees with the recommendation and will work with its landlord, within the constraints of the terms of its lease, to ensure that drills are held as required.

Canadian Radio-television and Telecommunications Commission's response. The Commission agrees with the recommendation and has already taken or will take corrective action.

Citizenship and Immigration Canada's response. Agreed. The Department held annual general evacuation drills; however, it did not hold evacuation drills of adjoining floors for a high-rise building.

Additional drills every three months consisting of adjoining floors will be conducted.

Target date for the first planned adjoining floor drill is 12 March 2009.

Recommendation	Response
3.88 (continued)	<p>Department of Justice Canada's response. Agreed. Measures have been taken to correct this shortfall. For the East Memorial Building, the Department demonstrated that a fire drill took place in 2006 but not in 2007. Evidence was provided to the OAG that an annual fire drill was conducted in 2008 and that, as a result of measures now in place and the appointment of a new Chief Building Emergency Officer, the expectation is that the Department will remain compliant in future years.</p>
	<p>As for the Exchange Tower in Toronto, the federal government occupants' Chief Fire Emergency Officer will now keep his own records of all fire drills.</p> <p>Fisheries and Oceans Canada's response. The Department agrees with this recommendation.</p>
	<p>We duly noted the audit results and comments previously provided by the OAG concerning the requirement to hold various types of evacuation drills in accordance with the legislation, policies, and standards, and we have taken measures to ensure full compliance by 30 June 2009.</p>
	<p>Human Resources and Skills Development Canada's response. Agreed. We are in the process of collecting information for all the Department's buildings and locations across the country that require evacuation drills under the Treasury Board Standard. The review will be completed by the end of April 2009. As part of that review, an assessment will be completed to ensure that all our buildings are compliant and are conducting regular evacuation drills according to the Standard.</p>
	<p>Regular quarterly evacuations for Phase IV and Place Vanier have been put in place, beginning in the final quarter of 2008. In the current quarter, an evacuation was undertaken on 11 March 2009 for Phase IV, and in the case of Place Vanier an evacuation drill is scheduled for 31 March 2009.</p>
	<p>Immigration and Refugee Board of Canada's response. Agreed. Although fire drills have taken place in the past, no log was available to substantiate that fact. The Board now has a log to record fire drills that will be available for verification purposes.</p>

Recommendation	Response
3.88 (continued)	<p>Indian and Northern Affairs Canada's response. The Department agrees with the recommendation. In order to strengthen building occupants' familiarity with the Fire and Emergency procedures, we will be conducting two total building evacuation drills per year. Once the new fire alarm system is in place at Les Terrasses de la Chaudière, we will be conducting fire evacuation drills as per the current National Building and Fire codes and as per the Treasury Board Standard and the <i>Canada Labour Code</i>.</p>
	<p>Industry Canada's response. Agreed. Designated staff drills are conducted in the form of classroom training every two months in the C.D. Howe Building in accordance with the Treasury Board Standard. Supporting documentation is available.</p>
	<p>Drills every three months for adjoining groups of floors have not been conducted in the C.D. Howe Building since October 2000, when Human Resources and Skills Development Canada (HRSDC) placed the C.D. Howe Building on interim emergency procedures due to the lack of a fully functional voice communication system in the building. The direction provided by HRSDC indicated that the evacuation procedures for fire alarms in the building had to be changed from a phased evacuation to a full evacuation. In order to conduct a phased evacuation, the building voice communication must be fully operational and audible on all floors. This allows instructional fire evacuation for adjoining floors. The C.D. Howe building is currently undergoing a retrofit, during which the renewal of the voice communication system will be completed during fiscal year 2012–13.</p>
	<p>As for the Heritage Building, the designated staff drills and the drills every three months for adjoining groups of floors will be implemented in March 2009.</p>
	<p>Library and Archives Canada's response. Agreed. Library and Archives Canada will continue to conduct annual evacuation drills as required by federal legislation and Treasury Board policies and standards. The next evacuation drill is planned for fall 2009.</p>

Recommendation	Response
3.88 (continued)	<p>National Defence's response. The Chief Fire Inspector for the National Capital Region has taken action to ensure that all fire drills within its jurisdiction take place for fiscal year 2009–10. Further, a process is now in place to ensure continued compliance with these regulations within the National Capital Region.</p> <p>Natural Resources Canada's response. We concur with the recommendation. The Department will hold all evacuation drills, as required by federal legislation and Treasury Board policies and standards, by March 2010.</p> <p>Privy Council Office's response. Agreed. The Pricy Council Office will hold, or, through the fire emergency organization, participate in, at least one evacuation drill every year for each building it occupies.</p> <p>Public Works and Government Services Canada's response. Agreed. The Department has created a national, three-year advance schedule for workplace evacuation drills in all 45 workplaces where the Department has the largest number of employees.</p> <p>In its role as employer, the Department has initiated a survey of all other workplaces where it is not the major occupying department, but has employees occupying space in the building, to ascertain if the major occupying department, as the responsible lead, has put in place a building emergency organization, and prepared a fire safety plan as required by Treasury Board Standard 3-1. This initial survey will be completed by 31 July 2009, with ongoing monitoring conducted on a semi-annual basis thereafter.</p> <p>Royal Canadian Mounted Police's (RCMP's) response. Agreed. The RCMP will work with Public Works and Government Services Canada to ensure that evacuation drills are done for the safety of the occupants. The RCMP commits to hold all evacuation drills required by federal legislation and that Treasury Board policy and standards are followed.</p>

Recommendation	Response
3.88 (continued)	<p>Statistics Canada's response. Agreed. Considering that none of the high buildings evaluated for this audit were found to be compliant by the OAG, Statistics Canada believes that the current specific requirements are ambiguous. Furthermore, it is our understanding that Statistics Canada, by conducting two drills per year, a complete building evacuation, and a partial one, conducts more evacuation drills than most other high buildings evaluated by the OAG for this audit. Human Resources and Skills Development Canada and the Treasury Board of Canada Secretariat are responsible for establishing clear guidelines and Statistics Canada will modify its evacuation drills procedures in compliance with the policies and standards.</p>
	<p>Transport Canada's response. We agree with this recommendation. However, we feel that actual fire alarms that occur during the year can be substituted as having adjoining floor fire drills and meet the spirit of the Standard. Should no fire alarm occur within the adjoining floor drill schedule, then an adjoining floor drill would be held. We will proceed with discussions with Human Resources and Skills Development Canada in order to obtain acceptance of our Fire Safety Plan.</p>
<p>*Note: Effective February 2009, the Treasury Board of Canada Secretariat (TBS) became the major occupying department in one of the buildings included in our audit. As it has assumed responsibility for taking the required corrective action, TBS has responded to the recommendation instead of the Department of Finance Canada.</p>	<p>Treasury Board of Canada Secretariat's response.* Agreed. Members of the Building Emergency Organization (BEO) have received training in accordance with the revised fire safety plan and a training program has been established for managers, employees, and members of the BEO. A schedule for drill requirements was established on 19 December 2008 with quarterly and bi-monthly drills beginning January 2009. It should be noted that the Treasury Board of Canada Secretariat is currently reviewing the evacuation requirements contained in the Treasury Board Standard for Fire Safety.</p>
	<p>Veterans Affairs Canada's response. Agreed. The Department will establish compliance monitoring for evacuation drills nationally as required by federal legislation and Treasury Board policies and standards. Follow-up confirmation will be carried out during periodic site reviews conducted by Security Services.</p>

Recommendation**Response**

3.93 Departments should ensure that building fire emergency organizations are established and administered as required by federal legislation and Treasury Board policies and standards. (3.89–3.92)

Canada Border Services Agency's response. The Agency agrees with the recommendation. The Agency will ensure that building fire emergency organizations are established as required by policies and standards.

Canada Revenue Agency's response. Agreed. The Agency already has established building fire emergency organizations, and is committed to administering these organizations as required by federal legislation and Treasury Board policies and standards.

Canadian Food Inspection Agency's response. The Agency agrees with this recommendation. The Agency provided evidence that an organization existed and that meetings were being held as required by federal legislation and Treasury Board policies and standards. In accordance with Treasury Board policies, the Agency is now assuring that minutes from organization meetings are available.

Canadian Heritage's response. Agreed. In addition to the individual, floor-by-floor meetings and training sessions with the floor wardens of the fire emergency organization, the Department will, as of 2009, conduct an annual meeting involving all the floor wardens to discuss fire and emergency procedures, their responsibilities, and the fire safety plan.

Canadian Institutes of Health Research's response. Agreed. As the largest federal tenant in its building, the Canadian Institutes of Health Research currently administers the fire emergency organizations for all federal tenants.

Canadian Radio-television and Telecommunications Commission's response. The Commission agrees with the recommendation and has already taken or will take corrective action.

Citizenship and Immigration Canada's response. Agreed. The Department has been compliant with the conduct of annual meetings; however, it will ensure full compliance by ensuring that sufficient and appropriate records of such meetings are kept in the future.

Recommendation**Response**

3.93 (continued)

Department of Justice Canada's response. Agreed. Evidence of a Building Emergency Organization meeting for 2006 was provided to the OAG in regards to the East Memorial Building. No evidence was provided for 2007. As a result of measures now in place, the Department will remain compliant in future years.

Although no evidence of annual Building Emergency Organization meetings was provided to the OAG for 2006 and 2007 for the Exchange Tower in Toronto, measures now in place will ensure that we remain compliant.

Fisheries and Oceans Canada's response. The Department agrees with this recommendation.

We duly noted the audit results and comments previously provided by the OAG concerning the establishment and administration of building fire emergency organizations, and corrective measures have been implemented to comply with all applicable legislation, policies, and standards as of the first quarter of 2009.

Foreign Affairs and International Trade Canada's response. The Department concurs with the recommended action, and agrees to establish and administer building fire emergency organizations as required by federal legislation and Treasury Board policies and standards. The Emergency Response Organization member list for 111 Sussex has been updated and annual meetings with all members will be held and recorded.

Human Resources and Skills Development Canada's response. Agreed. Building Emergency Organization (BEO) teams are in place for all buildings in the National Capital Region where the Department is the primary occupant and responsible authority. A review of regional BEOs will ensure BEOs are in place across the country where required.

Immigration and Refugee Board of Canada's response. Agreed. Fire emergency organization meetings have been held once a year, but no minutes were taken to substantiate that fact. The Board has already addressed this issue by keeping a log for future meetings.

Indian and Northern Affairs Canada's response. The Department agrees with the recommendation and will ensure building fire emergency organizations are established and administered as required by federal legislation and Treasury Board policies and standards.

Recommendation	Response
3.93 (continued)	<p>Industry Canada's response. Agreed. The Department already establishes and administers building fire emergency organizations for the C.D. Howe Building and the Heritage Building.</p>
	<p>Library and Archives Canada's response. Agreed. Library and Archives Canada maintains a Fire Emergency Organization (FEO) within the scope of this audit as required by federal legislation and Treasury Board policies and standards. A chief FEO and a deputy FEO were appointed and there are floor emergency wardens for all 10 floors of this entity.</p>
	<p>National Defence's response. The Chief Fire Inspector for the National Capital Region has ensured that active building emergency organizations are present in all buildings. Further, a letter will be sent to all building senior officers, by the end of April 2009, outlining their responsibility to hold the annual building emergency organization meeting in their respective buildings and to provide a meeting record in the form of official minutes to the Chief Fire Inspector on an annual basis.</p>
	<p>Natural Resources Canada's response. We concur with the recommendation. The Department will establish and administer building fire emergency organizations, as required by federal legislation and Treasury Board policies and standards, by March 2010.</p>
	<p>Privy Council Office's (PCO's) response. Agreed. For buildings where PCO is the majority tenant, PCO will ensure that a fire emergency organization is established and maintained (in collaboration with other departments).</p>
	<p>For buildings where PCO is not the majority tenant, PCO will be a member of the fire emergency organization established by the majority tenant.</p>
	<p>Public Works and Government Services Canada's response. Agreed. A tracking system to ensure compliance with Treasury Board Standard 3-1 has been established in all of the Department's workplaces. For all workplaces where the Department is the major occupying department, full compliance with the Treasury Board standard will be completed by 1 June 2009.</p>

Recommendation	Response
3.93 (continued)	<p>In its role as employer, the Department has initiated a survey of all other workplaces where it is not the major occupying department, but has employees occupying space in the building, to ascertain if the major occupying department, as the responsible lead, has put in place a building emergency organization and prepared a fire safety plan as required by Treasury Board Standard 3-1. This initial survey will be completed by 31 July 2009, with ongoing monitoring conducted on a semi-annual basis thereafter.</p>
	<p>Royal Canadian Mounted Police's (RCMP's) response. Agreed. Building Emergency Organization (BEO) members should have periodic meetings to understand their roles and create viable action plans for evacuation. RCMP BEO members will receive a booklet, training, and recognition for being part of the BEO as required by federal legislation and Treasury Board policies and standards. The RCMP endeavours to do this by end of fiscal year 2009–10.</p>
	<p>Statistics Canada's response. Agreed. Statistics Canada conducts annual meetings with fire emergency officers, separately by floor. In that way, the discussion can focus on specific situations with respect to that floor. It was noted that some individuals have not attended the meetings. In future, we will invite these individuals to attend an alternate meeting, if appropriate, and we will send documentation and minutes from the meetings to those who were absent. Statistics Canada will also ensure that in the future, sufficient records regarding these meetings are maintained.</p>
Note: Effective February 2009, the Treasury Board of Canada Secretariat (TBS) became the major occupying department in one of the buildings included in our audit. As it has assumed responsibility for taking the required corrective action, TBS has responded to the recommendation instead of the Department of Finance Canada.	<p>Treasury Board of Canada Secretariat's response. Agreed. In December 2008, the Building Emergency Organization was restructured. Since then, all members of the Building Emergency Organization have received training on their roles and responsibilities regarding building fire and emergency building evacuations.</p>
	<p>Veterans Affairs Canada's response. Agreed. The Department already has and will continue to establish and administer building fire emergency organizations as required by federal legislation and Treasury Board policies and standards.</p>

Recommendation**Response****Fire safety administration and enforcement**

3.103 Human Resources and Skills Development Canada should establish the systems and practices it needs to administer and enforce the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization. (3.94–3.102)

Human Resources and Skills Development Canada's (HRSDC's) response. Agreed. HRSDC–Labour will work with Treasury Board of Canada Secretariat (TBS) officials to clarify roles and responsibilities, and to develop appropriate standards for the administration and enforcement of fire safety planning; HRSDC–Labour will also develop improved systems, processes, and procedures to manage the delivery of these services, and will work with custodial departments and TBS officials to develop new tools to track progress, monitor compliance with the Standard, and identify instances of non-compliance for enforcement purposes. Follow-up is in progress with the 7 buildings that had not submitted fire safety plans at the time of the audit. In addition, action has begun to address the issue of deficient fire safety plans as identified in 9 buildings. Finally, we will ensure that follow-up for the remaining buildings in the OAG sample is carried out.

3.104 The Treasury Board of Canada Secretariat should ensure that the government's policy objectives are being met, by obtaining timely and sufficient information from Human Resources and Skills Development Canada to ensure that it administers and enforces the Fire Protection, Investigation and Reporting Policy and its related standards. (3.94–3.102)

Treasury Board of Canada Secretariat's response. Agreed. The Secretariat will seek approval for a new Fire Protection Standard in fall 2009. The new Standard will clarify and strengthen the role of Human Resources and Skills Development Canada and will make it mandatory for departments and agencies to provide the necessary information in a timely way.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objectives

The objectives of the audit were to determine whether

- Public Works and Government Services Canada can demonstrate that office buildings it administers are operated and maintained in a manner that effectively mitigates the risks related to the health and safety of building occupants;
- the federal government can demonstrate that it complies with key requirements of the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization in Public Works and Government Services Canada-administered office buildings; and
- the Labour Program of Human Resources and Skills Development Canada can demonstrate that it administers and enforces the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization in Public Works and Government Services Canada-administered office buildings.

Scope and approach

We examined the key aspects of the management framework in place at Public Works and Government Services Canada (PWGSC) for operating and maintaining office buildings that it administers (both Crown-owned and leased buildings). Specifically, we focused on systems and procedures to ensure that risks to the health and safety of building occupants due to the condition and operating performance of buildings, their systems, and equipment were being effectively managed. We then tested whether a sample of 48 office buildings that the Department administered were adhering to important elements of the Department's framework. We focused specifically on the maintenance of selected fire safety equipment.

We also used the same sample of 48 office buildings to test whether the federal government complied with key requirements of the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (the Standard). Specifically, we audited compliance with key requirements of the Standard by reviewing evidence that the major occupying department in each building provided. The following 24 entities were identified as the major occupying department in at least one of the buildings in our sample:

- Canada Border Services Agency
- Canada Revenue Agency
- Canadian Food Inspection Agency
- Canadian Heritage
- Canadian Institutes of Health Research

- Canadian Radio-television and Telecommunications Commission
- Citizenship and Immigration Canada
- Department of Finance Canada
- Department of Justice Canada
- Fisheries and Oceans Canada
- Foreign Affairs and International Trade Canada
- Human Resources and Skills Development Canada
- Immigration and Refugee Board of Canada
- Indian and Northern Affairs Canada
- Industry Canada
- Library and Archives Canada
- National Defence
- Natural Resources Canada
- Privy Council Office
- Public Works and Government Services Canada
- Royal Canadian Mounted Police
- Statistics Canada
- Transport Canada
- Veterans Affairs Canada

Finally, the audit focused on the specific activities of Fire Protection Services (formerly called the Fire Commissioner of Canada) within Human Resources and Skills Development Canada's Labour Program. We assessed whether Fire Protection Services could demonstrate that it was administering and enforcing the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization. We interviewed Labour Program officials and reviewed departmental policies, procedures, and guidelines. We also looked at the systems and practices in place related to the review and the acceptance of fire safety plans that departments and agencies provided to the Labour Program's regional and district offices.

We sampled 48 buildings included in the PWGSC inventory of office buildings that it administered as of 31 January 2008. The buildings were selected based on full-time equivalent (FTE) information that PWGSC provided, in order to focus on buildings that house a significant number of federal employees. Of the 1,436 buildings the Department administered, we selected the 8 buildings with the highest FTE counts (more than 3,000 FTEs), and we randomly sampled 40 buildings from the 110 buildings with FTEs between 500 and 3,000.

The audit did not examine the following:

- other real property assets that PWGSC or other government departments managed (for example, special-purpose facilities, engineering assets);
- buildings in the Parliamentary Precinct;
- the specific roles and responsibilities of departments and agencies, as employers, for ensuring occupational health and safety under Part II of the *Canada Labour Code* (with the exception of those related to fire safety planning); and
- planning for emergencies other than fires.

Our audit was not designed to assess the health and safety of a building but rather to examine the processes departments have in place to manage and mitigate risks to the health and safety of building occupants.

Our audit covered the period from 1 April 2006 to 31 March 2008.

Management reviewed and accepted the suitability of the criteria used in the audit.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that the Treasury Board Policy Suite for the Management of Assets and Acquired Services would have established clear roles, responsibilities, and accountabilities for the operation and maintenance of federally administered office buildings, and for adherence to applicable health and safety authorities and standards.	<ul style="list-style-type: none"> • Treasury Board Policy Framework for the Management of Assets and Acquired Services (2006), sections 2, 3.1, and 4 • Treasury Board Policy on Management of Real Property (2006), Section 8.12 • Treasury Board Common Services Policy (2006), Appendix E, Section 6.1, and Appendix F, Section 5.14
We expected that Public Works and Government Services Canada's (PWGSC's) departmental policies and procedures to operate and maintain office buildings it administers would have been clear and conformed to Treasury Board policy requirements.	<ul style="list-style-type: none"> • Public Works and Government Services Canada (PWGSC) Facility Maintenance Policy and Guidelines (1997) • PWGSC Asset Performance Monitoring Policy (1995) • PWGSC Building Condition Report Terms of Reference (2002) • PWGSC Building Management Plan National Call Letter (2006–07 and 2007–08) • PWGSC Building Performance Review National Call Letter (2006–07 and 2007–08) • PWGSC Lease Agreements, Schedule C, Part 1, Section 1(1)

Criteria	Sources
<p>We expected that PWGSC would have demonstrated that it regularly and systematically assessed and monitored the condition and operation of office buildings it administers to ensure compliance with applicable health and safety authorities and standards.</p>	<ul style="list-style-type: none"> • Treasury Board Policy on the Management of Real Property (2006), Section 6.1.3 • Treasury Board Common Services Policy (2006), Appendix E, Section 6.1 • PWGSC Facility Maintenance Policy and Guidelines (1997) • PWGSC Asset Performance Monitoring Policy (1995) • PWGSC Building Condition Report Terms of Reference (2002) • PWGSC Building Management Plan National Call Letter (2006–07 and 2007–08) • PWGSC Building Performance Review National Call Letter (2006–07 and 2007–08) • PWGSC Lease Agreements, Schedule C, Part 1, Section 1(1)
<p>We expected that PWGSC could demonstrate that it takes timely action to correct health and safety risks linked to the condition and operation of office buildings it administers.</p>	<ul style="list-style-type: none"> • PWGSC Facility Maintenance Policy and Guidelines (1997) • PWGSC Asset Performance Monitoring Policy (1995) • PWGSC Building Condition Report Terms of Reference (2002) • PWGSC Building Management Plan National Call Letter (2006–07 and 2007–08), Appendix D • PWGSC Building Performance Review National Call Letter (2006–07 and 2007–08) • PWGSC Lease Agreements, Schedule C, Part 1, Section 1(1)
<p>We expected that the Treasury Board policy framework for fire safety would have established clear roles, responsibilities, and accountabilities for fire safety planning and fire emergency organizations.</p>	<ul style="list-style-type: none"> • Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (1994), sections 1.1, 1.3, 2.1, 2.2, 3.2, and 4.1 • Treasury Board Policy on Fire Protection, Investigation and Reporting (chapters 2–5) (1994), Policy Requirements section, Responsibilities section, and Appendix C
<p>We expected that the federal government, through the major occupying department in each PWGSC-administered office building, could demonstrate that an approved fire safety plan for the building was in place.</p>	<p>Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (1994), sections 2.2 and 2.3</p>
<p>We expected that the federal government, through the major occupying department in each PWGSC-administered office building, could demonstrate that fire evacuation drills had taken place as required.</p>	<p>Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (1994), sections 2.1(a), 2.1(b)(v), 2.2, and 4.1</p>
<p>We expected that the federal government, through the major occupying department in each PWGSC-administered office building, could demonstrate that the required fire emergency organization structure for the building was in place.</p>	<p>Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (1994), sections 3.1, 3.2, 3.4, 3.5, 3.7, and 3.13</p>
<p>We expected that the Labour Program of Human Resources and Skills Development Canada (HRSDC) could demonstrate that it administered the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization to ensure that departments and agencies had carried out their obligations under the Standard.</p>	<ul style="list-style-type: none"> • Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (1994), Section 1.4 • Treasury Board Policy on Fire Protection, Investigation and Reporting (chapters 2–5) (1994), Responsibilities section

Criteria	Sources
<p>We expected that the Labour Program of HRSDC could demonstrate that it reported and followed up on situations of non-compliance with the Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization in PWGSC-administered office buildings.</p>	<ul style="list-style-type: none"> • Treasury Board Standard for Fire Safety Planning and Fire Emergency Organization (1994), Section 1.4 • Treasury Board Policy on Fire Protection, Investigation and Reporting (chapters 2–5) (1994), Responsibilities section

Audit work completed

Audit work for this chapter was substantially completed on 2 December 2008.

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Report of the Auditor General of Canada to the House of Commons—Spring 2009

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2009



SPRING

Report of the
**Auditor General
of Canada**
to the House of Commons

Chapter 4
Interest on Advance Deposits from
Corporate Taxpayers—Canada Revenue Agency



Office of the Auditor General of Canada



2009



SPRING

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Chapter 4
Interest on Advance Deposits from
Corporate Taxpayers—Canada Revenue Agency



Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

4

Interest on Advance Deposits from
Corporate Taxpayers—Canada Revenue
Agency

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Interest on Advance Deposits from Corporate Taxpayers—Canada Revenue Agency

Main Points

What we examined

Corporate taxpayers who anticipate a reassessment of their income tax returns by the Canada Revenue Agency for a certain tax year may remit funds in advance, which the Agency will hold to apply when the reassessment is processed. Reassessments are fairly routine for corporate taxpayers, and the Agency asks that, when they make an advance deposit, they indicate the tax year to which the expected reassessment relates. For the majority of corporations, the amounts they deposit in advance are in line with the amount of tax they expect to be reassessed.

Our financial audits of the Agency noted that a number of corporations are maintaining large balances—totalling more than \$4 billion—on deposit with the Agency from year to year. Tax overpayments earned a rate of interest ranging between five percent and seven percent during the past three years. We decided to examine whether the Agency adequately administers advance deposits from corporate taxpayers under the *Income Tax Act* and *Income Tax Regulations* and whether it adequately monitors and manages accounts where it might be obliged to pay interest. We looked at the 50 largest accounts of corporate taxpayers, representing two thirds of the total balance on hand. Our review of these files went back three years.

Why it's important

The Canada Revenue Agency is responsible for administering Canada's tax system in a way that protects the tax revenue base. In our view, this would include ensuring that it does not make large interest payments that could be avoided and advising the Department of Finance Canada if it believes existing legislation is resulting in any unintended consequences.

What we found

- In 1991, the Agency recognized—soon after a change in the *Income Tax Regulations* raised the prescribed interest rate on overpayments to its present level—that certain corporations were depositing and leaving large balances on their accounts. It questioned whether they were doing it to take advantage of the favourable interest rates. More recently, when preparing the Agency's year-end audited financial statements, senior officials of the Agency concluded that most of the

balances are refundable to the corporations. In many cases, refunds will ultimately be made, along with interest that has accrued over the years. Where this proves to be the case, the government will, in effect, have paid interest at a higher rate than its own cost of borrowing. We conservatively estimate, based on a limited number of accounts, that the difference between the government's borrowing rate and the interest rates on these deposits represents at least \$30 million in unnecessary interest costs for each of the past three years.

- The Agency launched a number of initiatives over the years to refund as many of these balances as possible, but with limited success. If a corporation did not choose to withdraw its balance, the Agency accepted the decision. Officials told us that in the absence of voluntary cooperation by the taxpayer, the Agency held the balance in the taxpayer's account. Although it normally informs the Department of Finance Canada of any compliance challenges that could signal the need for legislative change, the Agency has not discussed this matter with the Department of Finance Canada or proposed any solutions to reduce interest costs. We note that other jurisdictions limit the interest payable in similar situations.
- As tax legislation is silent on whether the Agency can accept or refund advance deposits, the Agency developed an administrative practice. This practice was designed to allow corporations to minimize interest costs where there is a bona fide risk of reassessment. However, the Agency is not currently requiring corporations to follow guidance it has published in its Corporation Instalment Guide, and key aspects of the Agency's practices for managing advance deposits remain unclear. For example, corporations frequently do not identify the tax year to which their advance deposits relate. Moreover, although the guide discusses accepting payments only in the context of "anticipated reassessments," the Agency does not have a process in place for checking its own files to see if a reassessment is in the works and if the amount deposited is in line with the amount likely to be reassessed.

The Agency has responded. The Agency agrees with our recommendation. Its detailed response follows the recommendation in the chapter.

Introduction

A tax system based on self-assessment

4.1 A self-assessment system is used to administer Canadian income tax. Under this system, corporate taxpayers file their returns, voluntarily report their income and expenses, and calculate the amount of tax they owe.

4.2 Taxpayers who have underpaid usually must pay interest on the taxes they owe, while those who have overpaid are usually entitled to receive interest on the amounts owing to them. The *Income Tax Act* specifies how the interest is to be calculated, and the *Income Tax Regulations* specify how to determine the interest rates for overpayments and underpayments of tax. The Canada Revenue Agency calculates and publishes the interest rates four times a year, as required under the *Income Tax Regulations*.

4.3 Under the Act and Regulations, the interest rate applied to tax underpayments is higher than the rate applied to overpayments. The Department of Finance Canada introduced the dual interest rate structure to encourage prompt payment of taxes. The *Income Tax Act* also provides for different tax treatment of interest revenue and interest expense. The interest that a corporation earns when it overpays is taxable; however, for tax purposes, a corporation usually cannot deduct the arrears interest charges that it pays to the Agency. Consequently, corporate taxpayers have a strong incentive to comply with the legislation and remit their payments promptly.

Reassessments and advance payments of corporate income tax

4.4 A corporation has up to six months after its year-end to file a tax return. The Agency examines the return and sends a notice of assessment to the taxpayer. Normally, depending on the type of corporation, the Agency may re-examine the return and issue reassessments during the three or four years after the initial assessment. The rules in the *Income Tax Act* are complex, and it is common for the Agency to re-examine returns and issue reassessments for corporate taxpayers.

4.5 When a reassessment modifies the amount of corporate tax payable, the Agency also recalculates interest. Revisions to interest are based on the net increase or decrease in tax from the date that the tax was originally due to the date that the reassessed tax is paid. If reassessments that lead to large increases in the corporate tax are made

well after the “balance-due day” (the day that the balance owing for the year must be paid) for a particular tax year, the arrears interest charges can be substantial.

4.6 By remitting sufficient funds to cover additional tax that might later be assessed, a taxpayer can reduce or entirely eliminate arrears interest charges. This is why corporate taxpayers requested permission to make supplementary payments that would limit their potential exposure to arrears interest charges. At the 1991 Canadian Tax Foundation Annual Conference, the Agency indicated that it would accept such voluntary payments and would pay refund interest even if a reassessment was not issued for a year in which a voluntary payment was received. The Agency clarified that this practice applied only “with respect to a bona fide possibility of a reassessment.” In this chapter, we refer to the voluntary payments, as well as overpayments that are left on account with the Agency, as “advance deposits.”

4.7 The Agency pays refund interest on an overpayment up to the day the amount is refunded or used. The calculation of this refund interest is done for specific tax years. While the tax owing for a particular year may be known with certainty after it is assessed or reassessed, the *Income Tax Act* allows taxpayers discretion in determining how payments should be allocated. For example, a taxpayer can move an excess instalment payment from an account where it is not needed to one where it is. When interest on either overpaid or underpaid tax is calculated, the *Income Tax Act* specifies that the original payment date remains in effect.

4.8 The rate of interest paid by the Agency on tax overpayments was five percent as of December 2008. This rate, as defined in the *Income Tax Regulations*, is always at least two percent higher than government’s cost of borrowing short-term funds. The calculation begins by taking the average rate for 90-day Treasury bills sold during the first month of the previous quarter. That rate is then rounded up to the next whole percentage, and a further two percentage points are added to the rounded figure. The Department of Finance Canada last revised this formula in 1989. It told us that, as a matter of policy, other interest rate considerations may be relevant, aside from the government’s cost of borrowing. For example, to determine the interest rate to be paid on tax overpayments, the Department considers taxpayers’ cost of borrowing.

4.9 From Agency officials and through our own research, we learned how some other jurisdictions treat advance deposits (Exhibit 4.1).

Exhibit 4.1 Other jurisdictions limit the interest payable on tax overpayments

Jurisdiction	Action
Province of Alberta	While there is no provision in the provincial act for corporations to prepay in anticipation of reassessments, the Tax and Revenue Administration of Alberta accepts such payments and holds them against reassessed balances. This allows taxpayers an opportunity to reduce the amount of interest charges that might otherwise have been payable. The Alberta policy does not, however, allow for any refund interest to be paid when these prepayments result in an overpayment of tax.
Province of Ontario	For the fourth quarter of 2008, the Province of Ontario's prescribed interest rate for corporate tax overpayments was two percent. This was three percentage points lower than the Canada Revenue Agency's equivalent rate. If a tax refund followed a successful objection or appeal, Ontario paid a higher interest rate equal to that paid by the Agency during the same quarter. This was in effect before the Agency took over the administration of Ontario tax.
Internal Revenue Service of the United States	The US Internal Revenue Service has established a lower interest rate applicable to corporate tax overpayments above a predetermined threshold. Since 1994, the interest rate on the portion of tax overpayments exceeding \$10,000 has been set 1.5 percentage points lower than the rate paid on the first \$10,000 of overpayment.

4.10 From the beginning of 2006 until the end of 2008, the prescribed interest rate on overpayments ranged from five percent to seven percent. For each of the three fiscal year-ends within that period, the total amount of advance deposits from corporate taxpayers exceeded \$4 billion—about ten percent of 2008 corporate tax revenues.

4.11 The Office of the Auditor General conducts annual financial audits of the Agency. During our recent audits, we were informed by management that the Agency had concluded that most of its advance deposits were not required for known or expected reassessments. By retaining these advance deposits, the Agency may incur interest expense at the rates we have noted.

Focus of the audit

4.12 We examined whether the Agency's administrative practices were designed and administered to ensure that advance deposits were accepted and held only with respect to a bona fide possibility of a reassessment—thus minimizing arrears interest costs to the taxpayer.

4.13 We assessed whether the Agency could demonstrate that it is managing advance deposits from corporate taxpayers with due regard for economy. In addition to applying the law, we expected the Agency to use the authorities and flexibility available to it under the *Income Tax Act* and the *Income Tax Regulations*.

4.14 We also assessed whether the Agency's Legislative Policy Directorate had been informed that the legislation and/or the administrative practices had unintended consequences; and whether it had brought these to the attention of the Department of Finance Canada's Tax Policy Branch and, if so, what the Department's response was.

4.15 The *Income Tax Act* prohibits the disclosure of taxpayer information. To prevent readers from identifying particular corporations, we have aggregated information about the corporations and rounded amounts and calculations. An overall recommendation addressing the Agency's management of advance deposits can be found at the end of the **Observations and Recommendations** section.

4.16 More details on the audit objective, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Observations and Recommendations

Administration of advance deposits from corporate taxpayers

The Agency lacks clear procedures for managing advance deposits

4.17 We expected the Canada Revenue Agency to administer advance deposits of tax in accordance with the provisions of the *Income Tax Act* and published guidance. However, the Act contains no provisions specifically about accepting advance deposits remitted to prepay tax that might be due after a reassessment. As an administrative practice, the Agency has accepted advance deposits since 1991 to help corporate taxpayers keep interest costs down. The 2009 Corporation Instalment Guide provides the following instructions about prepaying reassessments:

If you prepay tax for an anticipated reassessment you may reduce charges of arrears interest.

To make prepayments, use Form RC159, *Amount Owing Remittance Voucher* (however, we will accept any corporation remittance voucher). Clearly indicate that the payments are **prepayments**. Also include your Business Number and the tax year-end for which the prepayments are intended. We will hold the payments for this purpose and apply them when we process the reassessments.

4.18 Agency personnel told us that there is no comprehensive policy or guidance for staff on how to manage advance deposits. Consequently, it is not clear what staff members are expected to do if they conclude that a deposit exceeds the amount likely to be due under an expected reassessment.

4.19 The 2009 Corporation Instalment Guide and the Agency's response to the 1991 Canadian Tax Foundation Annual Conference question include an expectation that the Agency accepts and holds such deposits only when reassessments are likely. However, we found that the Agency accepts deposits from corporations without checking the likelihood of reassessment. The Agency monitors whether individual advance deposits are still needed and occasionally contacts corporations when deposits seem excessive. However, it does not take steps to return the funds unless it is asked to do so. We also found that, in the case of larger deposits, corporations rarely follow the instruction to indicate the tax year for which a prepayment is intended. This makes it harder for the Agency to check the likelihood of reassessment.

4.20 When it prepared its year-end audited financial statements for 2007 and 2008, the Agency identified some cases in which corporate taxpayers had made an advance deposit because an ongoing audit presented a bona fide risk of reassessment. In most other cases, the Agency concluded that the amount of funds on deposit significantly exceeded its estimates of additional tax that might be payable under future reassessments. In line with management's conclusion that most of the deposits are refundable with interest, the Agency appropriately reports the balances expected to be refunded as amounts due to taxpayers, not revenue.

The Agency does not give due regard to economy in managing the interest it pays on advance deposits

4.21 We expected the Agency to protect the tax base by ensuring that it does not make large refund interest payments if avoidable. Revisions made to the *Income Tax Regulations* in 1989 increased the prescribed interest rate on overpayments by two percentage points. By 1991, the Agency recognized that some corporations might maintain excess funds on deposit to profit from advantageous short-term interest rates. In an internal memorandum, the Agency stated, “We are not comfortable with a practice which in effect could allow taxpayers to use their Revenue Canada accounts as an ‘investment account’ (earning interest at a higher rate than with the bank).”

4.22 As of the ends of the 2005–06, 2006–07, and 2007–08 fiscal years, the Agency held more than \$4 billion in advance deposits from corporate taxpayers. Corporations that are likely to have reassessments accounted for only a portion of the advance deposits. Some of the larger deposits amount to hundreds of millions of dollars, but they come from only a small number of corporations. In each of the three fiscal years, the same 50 corporations accounted for approximately two-thirds of these deposits.

4.23 If the Agency unnecessarily holds large amounts on deposit, with an obligation to pay interest when making a refund, the federal government effectively is borrowing those funds at a higher interest rate than necessary. Instead of borrowing at Treasury bill rates, it will pay a rate that is at least two percentage points higher. On the basis of a limited number of large accounts, we conservatively estimate that the government has incurred at least \$30 million in excess interest costs in each of the past three fiscal years (2005–06, 2006–07, and 2007–08).

4.24 For many years, the Agency has considered the possibility that corporations make advance deposits to earn a high rate of return. The Agency has launched a number of management initiatives to refund as many of the advance deposits as possible and to ensure that they are allocated to particular years. These initiatives have met with little success. When corporations were contacted, the Agency encouraged them to follow the Corporation Instalment Guide. However, if the corporations chose not to, the Agency accepted their decisions about allocating and retaining their deposited funds.

4.25 In our opinion, the Agency is not required by the *Income Tax Act* to accept or retain funds if it determines that those funds are not needed to cover a potential reassessment. By returning an advance

deposit, the Agency faces the risk of the corporation being unable to pay additional taxes owing from a reassessment. However, the Agency can manage the risk by considering this possibility when it decides whether to accept or retain an advance deposit.

4.26 The Department of Finance Canada's Tax Policy Branch is responsible for developing federal taxation policies and the legislation that relates to business income tax; the Agency is responsible for tax administration, including collecting taxes and interpreting tax law. The Agency informs the Tax Policy Branch of compliance challenges that it identifies. The Department considers that information when developing legislation.

4.27 Officials of the Agency and the Department have discussed how to account for advance deposits in the Agency's financial statements. However, officials of both organizations confirmed to us that there have been no discussions involving either the Agency's Legislative Policy Branch or the Department's Tax Policy Branch on the subject of the interest costs resulting from the possibility that some corporations use advance deposits for investment purposes.

4.28 Recommendation. The Canada Revenue Agency should

- inform the Department of Finance Canada's Tax Policy Branch about the issues related to advance deposits, so the Department can assess the need for a legislative or regulatory change to reduce associated interest expenses; and
- develop and consistently apply a robust administrative policy framework for managing advance deposits, whether or not a legislative or regulatory change is determined to be necessary.

The Agency's response. Agreed. The Canada Revenue Agency has long recognized the importance of managing advance deposits and has an annual process in place to review these amounts. In that regard, the Agency will revisit its administrative policy framework for managing advance deposits with a view to strengthening it, particularly as it relates to potential refunds and interest expenses.

While the Agency has not determined that particular taxpayers are placing amounts on deposit with the Agency for any reason other than as a protective measure against a future assessment, the Agency will inform the Department of Finance about its practices concerning advance deposits and the amounts of interest paid thereon so the Department can assess whether there is a need for a legislative change.

Conclusion

4.29 In the absence of legislative provisions, the Canada Revenue Agency has developed an administrative practice for dealing with advance deposits by corporations. The intention was to allow corporate taxpayers to minimize interest expenses if there was a bona fide risk of reassessment. However, excessive interest costs may be incurred if the administrative practice is not followed.

4.30 The Canada Revenue Agency has not ensured that corporations follow the instructions on advance deposits published in its Corporation Instalment Guide, and it has not developed its own administrative policies to provide clear, consistent guidance to staff on how to manage these advance deposits. In addition, the Agency has not shown due regard for economy in the way it manages interest expenses arising from corporate advance deposits. In each of the past three fiscal years (2005–06, 2006–07, and 2007–08), the Agency incurred at least \$30 million of unnecessary interest expense.

4.31 The Agency has long recognized the concerns regarding excess advance deposits. However, the Agency did not inform the Department of Finance Canada about this issue or about approaches taken by other jurisdictions to deal with the same issue.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objective

The objective of this audit was to determine whether

- the Canada Revenue Agency can demonstrate that it is using the authorities and flexibility available to it under the *Income Tax Act* and *Income Tax Regulations* to manage advance deposits from corporate taxpayers with due regard for economy and without unintended consequences; and
- the Department of Finance Canada's response to identified compliance challenges is adequate.

Scope and approach

Our audit examined the 50 largest deposits from corporate taxpayers over the three previous fiscal years (2005–06, 2006–07, and 2007–08). Although excess deposits can exist for any type of tax (for example, personal income tax), past experience has shown that the largest deposits are for corporate tax. We examined the legislation governing advance deposits, refunds, and interest, as well as the Agency's procedures for administering the legislation and managing advance deposits. We also looked at the role played by the Department of Finance Canada's Tax Policy Branch in developing the legislation and helping the Agency to interpret the law.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that the Canada Revenue Agency would administer tax legislation according to the law.	<ul style="list-style-type: none"> • <i>Queen v. Harris</i>, [2000] 4. F.C. 37 CA, paras. 36 – 37 • Canada Revenue Agency, 2006–07 Annual Report, page 9
We expected that the Agency would analyze the likelihood of future reassessment and calculate future interest expense for accounts with advance deposits.	<ul style="list-style-type: none"> • Auditor General Act, Section 7(2)(d) • Canada Revenue Agency, 2009 Corporation Instalment Guide, page 12
We expected that the Agency would provide information on compliance challenges to the Department of Finance Canada.	<ul style="list-style-type: none"> • Canada Revenue Agency, 2006–07 Annual Report, page 18
We expected that the Department of Finance Canada would adequately respond to compliance challenges identified by the Agency.	<ul style="list-style-type: none"> • Department of Finance Canada, 2007–08 Report on Plans and Priorities, pages 17–19

Audit work completed

Audit work for this chapter was substantially completed on 18 February 2009.

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Appendix List of recommendations

The following is the recommendation found in chapter 4. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p>Administration of advance deposits from corporate taxpayers</p> <p>4.28 The Canada Revenue Agency should</p> <ul style="list-style-type: none"> • inform the Department of Finance Canada's Tax Policy Branch about the issues related to advance deposits, so the Department can assess the need for a legislative or regulatory change to reduce associated interest expenses; and • develop and consistently apply a robust administrative policy framework for managing advance deposits, whether or not a legislative or regulatory change is determined to be necessary. (4.17–4.27) 	<p>Agreed. The Canada Revenue Agency has long recognized the importance of managing advance deposits and has an annual process in place to review these amounts. In that regard, the Agency will revisit its administrative policy framework for managing advance deposits with a view to strengthening it, particularly as it relates to potential refunds and interest expenses.</p> <p>While the Agency has not determined that particular taxpayers are placing amounts on deposit with the Agency for any reason other than as a protective measure against a future assessment, the Agency will inform the Department of Finance about its practices concerning advance deposits and the amounts of interest paid thereon so the Department can assess whether there is a need for a legislative change.</p>

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Report of the
**Auditor General
of Canada**
to the House of Commons

Chapter 5
Financial Management and Control—
National Defence



Office of the Auditor General of Canada



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Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

5

Financial Management and Control—
National Defence

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Financial Management and Control— National Defence

Main Points

What we examined

Effective financial management means having the financial and risk information an organization needs to make sound decisions in planning, delivering, monitoring, and evaluating its programs and activities. It is a critical part of managing that helps an organization assess the cost of achieving its objectives and contributes to managing its risks. Relevant financial information and control systems are essential to ensuring that managers have access to sound, up-to-date financial information for decision making.

National Defence has an annual budget of almost \$19 billion and manages over \$33 billion in equipment, inventory, and real estate. Over the past few years, the Department has experienced real growth in funding—a trend that is projected to continue. Our audit examined whether National Defence's financial management practices support financial decision making, resource management, planning, and management of risks. We focused on the activities of the senior managers who are responsible for deciding how the Department's funding will be allocated and what major investments the Department will make.

Why it's important

With annual total spending in the billions of dollars and operations around the world, National Defence is one of the largest government departments. The Department's financial decisions have long-term impacts not only on the organization, but also on the safety and security of the nation. The Department's success in meeting its obligations under the government's defence policies hinges on its ability to manage its financial resources. A decision made one year—for example, to invest in major equipment with prolonged delivery schedules and an extensive useful life—can have financial implications for many years ahead. Good financial management is especially important given that the Department is allowed to carry forward surplus funds currently equivalent to only 1 percent of its funding, compared with the 5 percent allowed most other departments. Although its budget and carry-forward is large in real terms, National Defence must manage financially within tighter parameters.

National Defence has identified financial management as a priority for many years. Audits by our Office since the early 1990s have also identified financial management and controls as areas that need attention in the Department.

What we found

- National Defence has taken steps to strengthen financial management and control. It has some basic elements of good financial control, including compliance with legislative and government requirements for financial reporting, and it has kept its annual spending within authorized funding limits. However, National Defence's governance structure is not sufficiently focused on financial management. We also noted that the Department's draft governance framework does not mention the responsibilities and accountabilities of the Chief Financial Officer, a position required under the Treasury Board of Canada's new Policy on Financial Management Governance.
- National Defence invests a lot of time in business planning, but the result is a series of short-term operational plans for each division. There is no corporate business plan that links defence strategy to objectives and associated risks, activities, resources, and expected results with medium- and long-term plans in order to guide decision making and resource management across the Department.
- The Department's financial management and monitoring of resources may not be adequate to support decision making by senior management. The lack of accurate and timely information for decision makers contributed to the lapsing of more than \$300 million in funding that was available during the 2007–08 fiscal year but is now permanently unavailable to National Defence.
- The Department is aware of the need to manage the risks associated with its responsibilities. However, its integrated risk management framework has not yet been incorporated in the analysis, recommendations, and reports used by senior management. Consequently, senior management lack the information needed to plan for and allocate resources to manage key risks that could impact National Defence in meeting its objectives.

The Department has responded. The Department agrees with our recommendations. Its detailed responses follow each recommendation throughout the chapter.

Introduction

5.1 Financial management is a critical activity that helps an organization assess the cost of achieving its objectives, manage its financial risks, identify accountabilities, and support strategic and operational decision making.

5.2 In a government context, financial management includes the following components:

- compliance with legislation, regulations, policies, and procedures;
- financial planning and budgetary controls;
- systems and internal controls;
- delegation of authorities and responsibilities;
- adherence to standards;
- accountability of individuals and organizations for performance; and
- management of risks.

5.3 Financial management also encompasses all the activities required for sound resource management. It provides the governance, rules, guidelines, processes, information, advice, oversight, and disclosure requirements necessary to protect and safeguard the integrity of public resources. The activities associated with financial management include planning, budgeting, accounting, reporting, internal control and oversight, analysis, costing, decision support and advice, and management of financial systems.

5.4 The *Financial Administration Act* guides the work of public servants and provides the framework for financial management within the Government of Canada. Under this legislation, the Treasury Board of Canada has authority over financial management and other matters related to the prudent and effective use of public resources. The Treasury Board fulfills this task by approving financial and management policies, assisting with the allocation of financial resources, and overseeing departments' resource management.

5.5 The Treasury Board introduced its Financial Management and Accountability Framework in 1991. This Framework was in effect at the time of our audit. It was replaced by the Policy on Financial Management Governance on 1 April 2009. These documents establish overall expectations to assess the adequacy and performance of financial management and supporting services, including

management, information and advice, control, accountability, organization, and process in federal government organizations.

5.6 National Defence must abide by the same legislation and most policies, directives, and standards that apply to other federal government departments and entities, including those related to financial management established by the Treasury Board. The Department must also fulfill its legislative mandate and respond to government initiatives, while being answerable to Parliament for its performance.

National Defence operates in a challenging environment

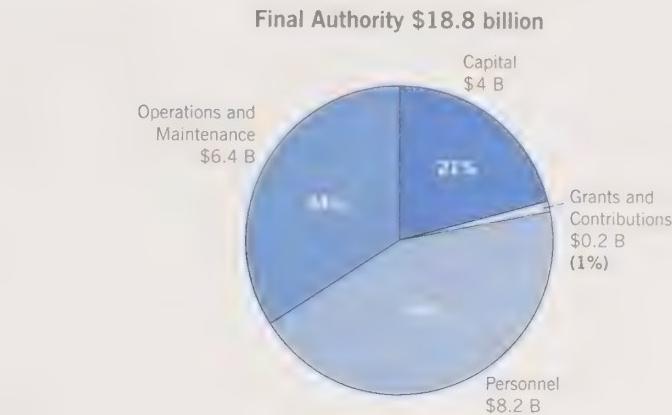
5.7 **Organizational structure.** The *National Defence Act* establishes the Department of National Defence and the Canadian Forces as separate entities operating together under the authority of the Minister of National Defence. The Chief of the Defence Staff is responsible for the control and administration of the Canadian Forces. The Deputy Minister of National Defence is responsible for, on the Minister's behalf, the management of the Department.

5.8 **Scope of operations.** The environment in which National Defence operates is complex. Military readiness, personnel, infrastructure, and equipment are the pillars of the organization. The Department's risks can be high; not achieving its objectives can have an impact on the safety of Canadians at home and soldiers deployed abroad. National Defence operates throughout Canada and around the world, adding to the challenge of managing its resources.

5.9 The Canada First Defence Strategy, formally announced in May 2008, is the current defence policy for National Defence. This strategy reaffirms the traditional role of the Canadian Forces—defending Canada and North America and contributing to international peace and security.

5.10 **Management of funding.** In order to carry out its mandate, National Defence received almost \$19 billion in parliamentary appropriations for the fiscal year ended 31 March 2008. Exhibit 5.1 illustrates the breakdown of the Department's expenditure of these funds. Capital is expended primarily for the acquisition of machinery, equipment, and infrastructure. Operations and maintenance spending includes the costs of using and maintaining equipment and infrastructure, transportation, communication, professional services, and miscellaneous items.

Exhibit 5.1 National Defence expenditures in the 2007–08 fiscal year



Source: National Defence

5.11 Personnel costs are the largest expenditure at National Defence. In the 2007–08 fiscal year, the Department employed more than 90,000 people on a full-time basis and the equivalent of about 25,000 reservists (Exhibit 5.2).

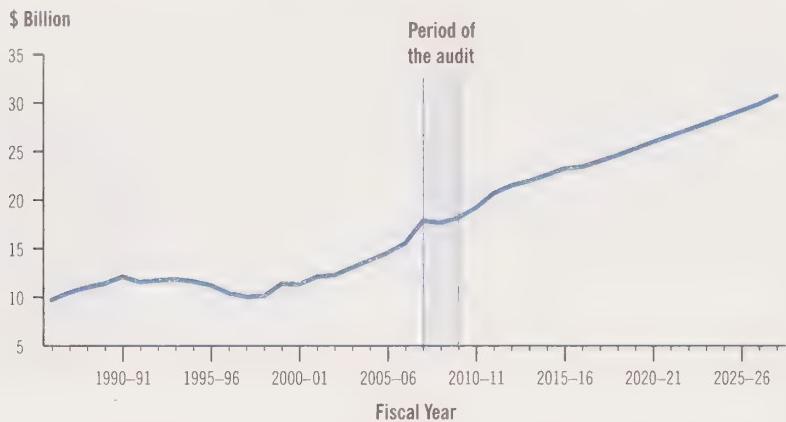
5.12 National Defence is experiencing real growth in its funding under the Canada First Defence Strategy (Exhibit 5.3). The Department is one of the largest government departments in terms of expenditures, personnel, and assets. While most government departments are allowed to carry forward to the next fiscal year any unused funds up to five percent of their annual operating budget, a government directive limits National Defence to carrying forward a maximum of \$200 million. This dollar level has remained static for

Exhibit 5.2 Personnel costs are the largest expenditure at National Defence

Human Resources as at 31 March 2008		
Full-time equivalent personnel	People	\$ billion
Military (Regular Force)	64,403	5.48
Civilian	25,966	1.89
Total full-time equivalents	90,369	7.37
Primary reserves	25,640	0.89

Sources: National Defence, 2007–08 Departmental Performance Report (people) and 2007–08 National Defence financial results by Financial Reporting Account (rounded dollars)

Exhibit 5.3 National Defence long-term funding



Source: National Defence, Canada First Defence Strategy.

For details of the forecast funding increase, please refer to the Canada First Defence Strategy, Chart 1 on the National Defence website (www.forces.gc.ca).

several years, even though the Department's funding has been increasing. As such, National Defence's carry forward had effectively decreased to just over one percent of its total appropriations for the 2007–08 fiscal year. This compels the Department to manage its bottom line with more precision than most government entities and requires a higher level of financial control.

Focus of the audit

5.13 The Office of the Auditor General has developed a methodology to assess financial management and control in government departments. It consists of three main elements:

- **Risk management and control.** An organization must identify the risks it faces in achieving its objectives and establish a framework to manage and control these risks.
- **Information.** An organization must establish procedures to manage and protect the integrity of its data and produce the type of information needed by managers to conduct their business and fulfill their responsibilities.
- **Management of resources.** Organizational resources must be managed and directed economically and efficiently to achieve corporate objectives. This is achieved through strategic planning, analysis, and support for decisions.

5.14 Within these elements, the objectives of financial management include providing support for decision making; ensuring the availability of timely, relevant, and accurate financial and

non-financial information; managing risks; ensuring the efficient, effective, and economical use of resources; defining and measuring accountabilities; providing a supportive control environment; complying with authorities; and safeguarding assets.

5.15 We used this methodology to determine whether National Defence can demonstrate that its financial management practices support resource management, strategic planning and decision making, and management of financial risk. Our audit also examined compliance with authorities. We audited the key financial management and business processes the Department's senior management use to control financial and other resources. Finally, we examined the relevancy of financial information provided to decision makers.

5.16 More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Observations and Recommendations

Planning and management

5.17 The Department's Defence Planning and Management Framework provides the structure within which National Defence plans, manages, monitors, and reports on its use of resources. The goal of this framework is to bring together, within a decentralized corporate management structure, the processes for strategic planning, resource allocation, business planning, and management by senior leaders.

5.18 The Deputy Minister has primary responsibility for policy and resource management. The Vice Chief of the Defence Staff is assigned responsibility for the Department's planning and management framework and is the corporate resource manager. In this capacity, the Vice Chief of the Defence Staff develops and oversees the Department's strategic management and planning processes and assigns resources to implement defence objectives.

National Defence lacks an integrated corporate business plan

5.19 Effective corporate financial management requires an integrated planning framework that includes operational and financial planning. We expected that National Defence would have procedures and practices to manage and monitor the use of resources. This would include planning and managing its operations based on priorities and outcomes, with funding identified to meet these objectives.

Capability the ability to achieve a desired effect in a given environment within a specified time, and sustain that effect for a designated period.

5.20 National Defence identifies three planning horizons: the long term (10 to 30 years), medium term (5 to 10 years), and short term (current year plus 3 years). We found that the Department has several processes that contribute to its planning. Those most directly related to financial management include capability-based planning, investment planning with a focus on the medium to long term, and business planning with a short-term horizon.

5.21 Capability-based planning. Capability-based planning is the process that National Defence has identified for determining future Canadian Forces capability requirements. It involves the analysis of scenarios, based on government defence policy and the Department's assessment of the current and future security environments. National Defence's objective is to identify Force-wide capabilities and prioritize any identified gaps or excesses to be addressed. It is an important process that provides strategic direction for resource planning.

5.22 Although the Department has identified the need for capability-based planning for many years, we found that this process was still being developed. At the time of our audit, the Department advised us that it had completed the analysis of 8 of the 18 scenarios that are to be used to identify the required capabilities. National Defence officials told us that these 8 scenarios define the majority of the Canadian Forces required capabilities.

5.23 However, we found that the analyses of the scenarios did not consider some of the variables that could influence or constrain the Department's ability to acquire the needed capabilities or to use them once acquired. For instance, the analyses did not consider human resource constraints. As National Defence is currently making decisions on longer-term resourcing, it needs a capability-based planning process that has analyzed all the scenarios and taken into account all factors that could affect its ability to implement the required capabilities. Capability-based planning is a source of vital information to guide senior management's decision making with respect to investment planning. As such, omissions from the analysis weaken the reliability of the information used for investment planning.

5.24 Investment planning. Investment planning, the process by which the Department conducts its long-term planning, is in a state of transition at National Defence. The Department had been working with the Strategic Capability Investment Plan since its approval in 2003. However, the Plan focused only on capital projects without including the additional costs or requirements of these initiatives such as infrastructure and personnel.

5.25 The Department is currently participating in the first phase of the transition to the new Treasury Board of Canada Policy on Investment Planning—Assets and Acquired Services. Following its Investment Plan Framework approved in November 2007, National Defence has been drafting a new investment plan. This is a complex undertaking that considers the capital and equipment acquisitions announced in the Canada First Defence Strategy. The objective is to develop a 20-year schedule of projects and planned expenditures incorporating capital, military readiness, personnel, and infrastructure elements to provide National Defence with a more complete long-term plan to guide decision making. At the time of our audit, the Department's Investment Plan was in draft form. However, the policy is still new to both National Defence and the Government of Canada, with some processes and practices still to be defined. The Department is continuing to work with the Treasury Board of Canada Secretariat to clarify and refine this planning process and related accounting practices.

5.26 Business planning. We found that National Defence has a well-defined business planning cycle that addresses its short-term operational requirements (Exhibit 5.4). The process starts in late spring each year when the Vice Chief of the Defence Staff issues a call letter to **Level 1 managers**. This letter provides instructions on updating existing business plans for the next year. **Notional funding allocations** are provided separately as a starting point for planning. In addition, functional guidance is issued by specific senior managers responsible for such corporate functions as information management, civilian and military human resources, materiel, and infrastructure. This functional guidance to Level 1 planning is intended to promote standardized practices in managing these Department-wide functions. The result of the business planning process is that managers start the fiscal year with approved budgets and operational priorities.

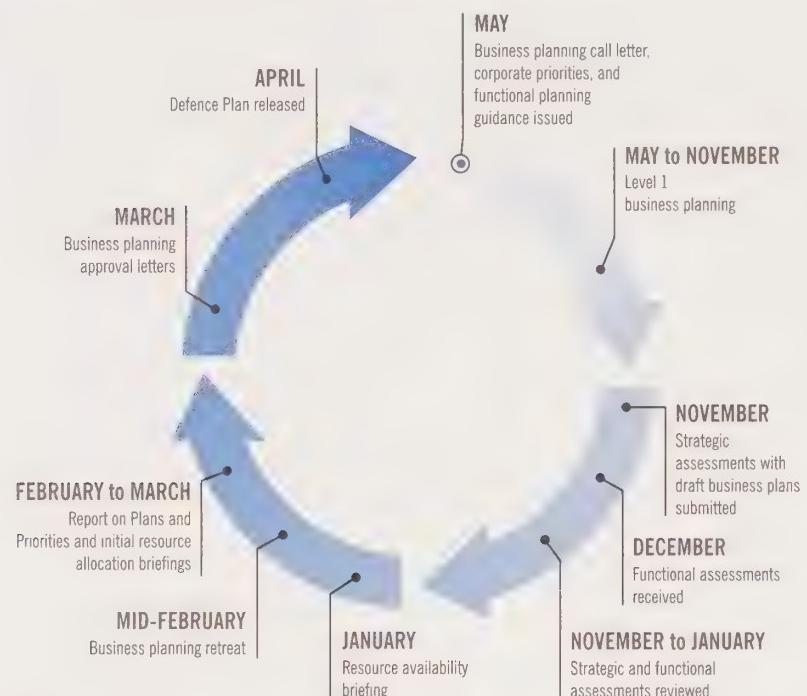
5.27 However, integrated risk management is not yet part of the planning cycle. This means that there is no requirement for the organization to demonstrate how its planning and resource allocation decisions will help to address key corporate risks that could impact its ability to meet planned objectives.

5.28 Corporate business plan. We expected that National Defence would have a corporate business plan that would integrate the results of these various planning processes into a strategic instrument, identifying the steps needed to achieve the Department's objectives. However, we found that the Department's planning processes have resulted in a collection of plans, not an integrated corporate business plan.

Level 1 managers—senior managers who are directly accountable to the Deputy Minister and/or Chief of the Defence Staff and for whom the Deputy Minister or Chief of the Defence Staff exercise full authority to assign and adjust tasks, goals, and resources. Throughout this chapter, the term senior management refers to these Level 1 managers as well as to the Deputy Minister and the Chief of the Defence Staff.

Notional funding allocations—the funding levels provided to senior management for planning purposes.

Exhibit 5.4 National Defence's business planning cycle



Source: National Defence

5.29 The Department identified the Defence Plan On-Line as the authoritative corporate plan, providing an overview of the current fiscal year and guidance for the next three years. Although financial allocations are identified for each Level 1 organization, these are not linked to objectives, risks, or expected results at the corporate level. Furthermore, while parts of this plan have been updated, we found that it still refers to the 1994 White Paper and Strategy 2020, issued in 1999. There is no mention of either the Defence Policy Statement of April 2005, which began the extensive transformation of the Canadian Forces, or the implications of several government announcements since 2006 that culminated in the May 2008 Canada First Defence Strategy.

5.30 Defence Plan On-line is not a corporate business plan. Given the complex environment and the different long-term horizons in which the Department operates, it needs to integrate the existing planning elements into an overall corporate business plan to guide decisions, manage resources, and communicate expectations throughout the organization.

5.31 Recommendation. National Defence should establish an integrated corporate business plan that links defence strategy to objectives, corporate risks, activities, resources, and expected results.

The Department's response. Agreed. Planning at National Defence requires the recognition of multiple time horizons and an integration of military capabilities with a departmental organizational structure. In this context, it is essential that core planning documents that drive objective setting, resource allocation, and performance measurement are fully aligned. These core documents include a Government of Canada 20-year Canada First Defence Strategy; a Program Activity Architecture; a Treasury Board-mandated Investment Plan, which provides a 5-year plan in a 20-year context; and Level 1 business plans. National Defence will further incorporate an integrated Level 0 Corporate Plan in this framework to complete the document alignment architecture and provide strategic direction and context for the development of Level 1 business plans.

Information is not adequate to support in-year management and monitoring of resources

5.32 We expected that accurate, timely, and relevant information would be available for decision making and to hold management accountable for the use of both financial and non-financial resources. Responsibility for financial management is shared across the organization. Therefore, it is essential that senior management be actively engaged in directing and monitoring the Department's resources to ensure that key corporate risks are addressed and corporate objectives achieved.

5.33 The Vice Chief of the Defence Staff is responsible for making decisions that support resource management at the senior level in the Department. The Vice Chief of the Defence Staff chairs and is supported by the Program Management Board, a committee of most Level 1 managers, who provide advice and guidance on resource management. This committee receives a short monthly briefing on the Department's expenditures and commitments and more detailed information each quarter. We found that this financial information is not integrated with Level 1 business plan activities and results. In addition, there is no formal process for Level 1 managers to provide routine reports on their progress in implementing their approved business plans. This means the information is not available for these senior managers to consider in making decisions about **in-year management** resource allocations.

In-year management The central activities of managing and adjusting resources in the current fiscal year.

Over-programming—National Defence's experience is that not all planned work will be completed in the fiscal year. By the time slippages are realized, it can be too late to allocate the available funds to another activity. The Department, therefore, plans for more work to be initiated than is funded for, with the expectation that certain activities will not be completed on schedule. This type of planning requires monitoring of cash flows to ensure that the Department does not overspend or lapse funds approved by Parliament.

Investment opportunities—activities not previously funded for but identified by senior management as areas in which funds can be spent effectively toward achieving objectives and ultimately reducing demand for funds in future years.

Re-profiling—the process by which funds originally approved by Parliament for a department in a fiscal year are approved to be transferred to a future year (or years).

5.34 We found that a focus of resource management at the senior level is **over-programming**—a planned activity level established by the Department that would require an amount of funding above the level provided. In consultation with the Vice Chief of the Defence Staff, the Assistant Deputy Minister, Finance and Corporate Services, recommends the annual level of over-programming to the Deputy Minister for approval. Periodic information is subsequently provided to the Deputy Minister while the Program Management Board receives regular updates on the status of the over-programming levels throughout the year. Each Level 1 manager is responsible for providing information on their current and expected spending so the Department can ensure the over-programming matches the approved parliamentary appropriations for the year.

5.35 Each quarter, and more frequently toward the end of the fiscal year, senior managers are asked to review funding pressures and surpluses as well as **investment opportunities** within the established over-programming levels. However, there is no routine information at the corporate level that identifies what was achieved with the funds expended to date.

5.36 We found that National Defence's in-year management and monitoring activities may not serve as sufficient oversight for effective resource management.

5.37 For example, the Department's Fourth Quarterly Review presented to the Program Management Board in February 2008 reported that the surplus for the 2007–08 fiscal year, approximately \$103 million, was manageable. However, by mid-March, the Board was advised that the surplus had grown to a projected \$268 million and, by the end of April 2008, this amount had risen to over \$500 million. This surplus was in addition to over \$700 million in funds that National Defence advised had been **re-profiled** to future years. As already noted, the Department is allowed to carry forward surplus funds of no more than \$200 million from the current fiscal year to the next fiscal year. Any surplus funds beyond this amount that have not been re-profiled to future years—in this case \$300 million—are lapsed by National Defence.

5.38 The Department conducted an analysis to determine why it had such a high surplus that was confirmed only at the end of the 2007–08 fiscal year. It identified several factors, including growth in the funds available from prior years, uncertain funding that was not confirmed until mid-year, and conservative planning for the 2007–08 fiscal year. However, we found that the Department had originally planned for the

use of some of the uncertain funds and that it had not declared large surpluses until too late in the fiscal year in which they were to be used.

5.39 The lack of accurate and timely information for decision makers contributed to the lapsing of more than \$300 million in funding that was available during the 2007–08 fiscal year; this funding is now permanently unavailable to the Department to meet its ongoing requirements. This is a serious consequence for a department that has stated a need for additional funds to fulfill its mandate.

5.40 In reviewing National Defence's year-end financial position for the prior four years, we noted that the Department generally managed within the \$200-million threshold and had lapsed funds on one previous occasion.

5.41 A further constraint on the accuracy and timeliness of information is the fact that the Department has a large number of independent systems, some of which feed data into the organization's main financial system. We noted that many of these systems are designed to support operational requirements, not financial management. As such, this makes it difficult for the Department to provide accurate and timely financial information to senior management for decision making.

5.42 In 2005, National Defence embarked on an initiative called Information Management/Information Technology Rationalization, designed to simplify information management and make it more efficient and responsive. Progress has been slow, however. At the time of our audit, the Deputy Minister and the Chief of the Defence Staff had initiated an Information Management Review to assess the progress of the ongoing changes and help senior management align efforts with the Canada First Defence Strategy.

5.43 Recommendation. National Defence should develop more complete, timely, and accurate information for senior management, including relevant indicators and measures related to plans, objectives, and associated risks, and actively engage all areas of the Department in regularly providing the information needed for corporate-wide financial management.

The Department's response. Agreed. National Defence acknowledges that it needs to improve its ability to produce integrated financial and non-financial performance information that is complete, timely, accurate, relevant, and fully supportive of the Department's Management, Resources, and Results Structure. In collaboration with the Treasury Board of Canada Secretariat, the Department is

developing a new Program Activity Architecture to better reflect how National Defence manages its resources. This will include a robust performance management framework to ensure management at all levels has the information needed and in a timely manner.

Risk management

5.44 The Treasury Board of Canada Secretariat defines risk as any uncertainty that could influence the achievement of an organization's objectives. In 2001, the Treasury Board of Canada Secretariat introduced the Integrated Risk Management Framework, which defines integrated risk management as a "continuous, proactive, and systematic process to understand, manage, and communicate risk from an organization-wide perspective." Integrated risk management calls for leadership by senior managers to focus priorities and spending on key risks that could impact the achievement of the organization's strategic objectives.

Introduction of integrated risk management elements is slow

5.45 We expected National Defence to have a well-developed approach to risk management at the corporate level, including a framework that is consistent with the Treasury Board of Canada Secretariat's Integrated Risk Management Framework. We found that the Department began only in 2007 to formally introduce a framework that included its integrated risk management policy, guidelines, and implementation plan.

5.46 The Treasury Board of Canada Secretariat's Integrated Risk Management Framework outlines the need for departments to develop a corporate risk profile, identifying key risks that need to be managed at the senior level to enable the organization to achieve its corporate objectives and results. We found that National Defence initiated the first part of the corporate risk profile in January 2007 by outlining its strategic risk areas. It drafted the second part in March 2008, identifying specific risks to its corporate objectives and mitigation strategies to address them. However, at the time of our audit, the risk profile had still not been approved for formal release within the Department for use in establishing its priorities and plans.

5.47 We found that accountability and leadership of corporate risk management resides with the Vice Chief of the Defence Staff's organization and that there has been initial communication on using integrated risk management in business planning and management activities. However, at the time of the audit, limited resources were assigned to help fulfill the Vice Chief of the Defence Staff's

accountability and leadership responsibilities to promote the full implementation of an integrated risk management framework for the Department.

Integrated risk management is not part of planning and financial management in the Department

5.48 The Treasury Board of Canada Secretariat's Integrated Risk Management Framework provides that a department develop a consistent risk management process at all levels of the organization for decision making and priority setting. The Secretariat notes that a consistent risk management process is important for an organization to effectively discuss, compare, and evaluate substantially different risks.

5.49 We examined selected strategic, planning, and decision-making documents, including the corporate risk profile, to determine whether they were consistent in their methodology, terminology, and references to risk management.

5.50 We found that National Defence's strategic documents did not always use the same risk terminology or risk-rating and risk-ranking systems, nor did they refer consistently to elements of integrated risk management, including the corporate risk profile. For example, the Department's Investment Plan Framework and draft Investment Plan use different risk terminologies and assessment scales, and neither fully corresponds to the Department's integrated risk management guidelines. Such differences make it difficult to manage and mitigate risks consistently within the Department.

5.51 In their annual business planning, Level 1 managers are required to identify risks to their objectives and to present them in the context of the Department's Corporate Risk Profile and Integrated Risk Management policy and guidelines. We asked how this information was used in the analysis of each Level 1 manager's request for resources and how integrated risk management was applied. The Department was not able to demonstrate that its corporate-level processes for assessing and allocating resources to the business plans were consistent with its integrated risk management policy.

5.52 For example, we expected that National Defence would use its integrated risk management methodology and terminology to rate and rank each risk that Level 1 managers identified in their annual business plans. This would provide a corporate understanding of the key risks to strategic objectives and their potential impacts. However, we found that each Level 1 manager's risks and associated requests for funding were summarized separately by different analysts without the

use of common integrated risk management terminology. National Defence did not provide evidence that the identified risks were prioritized or summarized for senior management's consideration in allocating resources.

5.53 We found that the Department's identified financial risks and its processes and procedures for managing them focus on compliance with authorities and the safeguarding and proper use of the Department's financial resources. However, they are not rated or presented in relation to the corporate risk profile.

5.54 While the Department has started to introduce integrated risk management, senior management has yet to require that it be applied consistently in financial and resource management activities. For example, the Vice Chief of the Defence Staff's organization is responsible for supporting the development of integrated risk management tools and processes throughout the organization. However, we found that few integrated risk management tools and processes had been used to support resource management decision making. Furthermore, routine reports for senior management do not include information about the progress being made in addressing, measuring, and monitoring the risks identified in the corporate risk profile. As such, National Defence cannot demonstrate nor ensure that plans are made and resources are allocated to address high-level corporate risks. This could potentially impact the achievement of strategic objectives.

5.55 Recommendation. National Defence should implement integrated risk management and actively incorporate consistent risk management practices and reporting into financial and resource management activities.

The Department's response. Agreed. It is acknowledged that the introduction of integrated risk management into a department as large and complex as National Defence is a challenging endeavour. While all of the Treasury Board-required elements of an Integrated Risk Management Framework are technically in place, the Department recognizes that more remains to be done to effectively integrate risk considerations into both planning and ongoing management activities. To this end, the Corporate Risk Profile is being revised, risks identified in the 20-year Investment Plan and Level 1 business plans will be mapped to corporate risks, and risk management will be further integrated into the decision-making process for all strategic-level governance bodies.

Compliance with authorities

5.56 All departments must comply with legislative requirements and government policies and directives related to financial management. In particular, departments must not spend more than their appropriations for the fiscal year and they must report to Parliament each fiscal year on both their plans and activities. In this audit, we examined whether National Defence spent within its funding authority and reported financial information to Parliament as required.

National Defence's expenditures were within its authorized funding

5.57 National Defence received almost \$19 billion in total funding authority during the 2007–08 fiscal year. We found that the Department spent within its funding authority for this year and for the prior four years reviewed. We also observed that the year-end surplus of \$500 million in 2007–08 was significantly larger than in most years. As already noted, National Defence carried forward \$200 million of the surplus to 2008–09 and lapsed unspent appropriations of about \$300 million.

External reporting requirements are met

5.58 Departments have mandatory reports that are routinely provided to the government. We found that National Defence prepares the financial information required for the annual Public Accounts of Canada and has produced publicly available departmental financial statements since the 2006–07 fiscal year. The Department also produces the required Report on Plans and Priorities and the Departmental Performance Report each year. The Department is working with the Treasury Board of Canada Secretariat to revise its **Program Activity Architecture** in order to better reflect the relationship between its corporate resource management processes and the reporting of results. Finally, the Department reports information for the annual Management Accountability Framework, which sets expectations and reports results for public sector managers.

Program Activity Architecture—a reporting structure directed by the Treasury Board of Canada Secretariat. It is an inventory of all the programs and activities undertaken by an organization depicted in relationship to each other and the strategic outcomes to which they contribute.

Governance

5.59 Governance can be defined as exercising authority to provide direction and to undertake, coordinate, and regulate activities in support of achieving this direction and the desired outcomes. It is how management expectations and accountabilities are defined and authority and responsibility are granted, and it is how the hierarchy and leadership in an organization are identified.

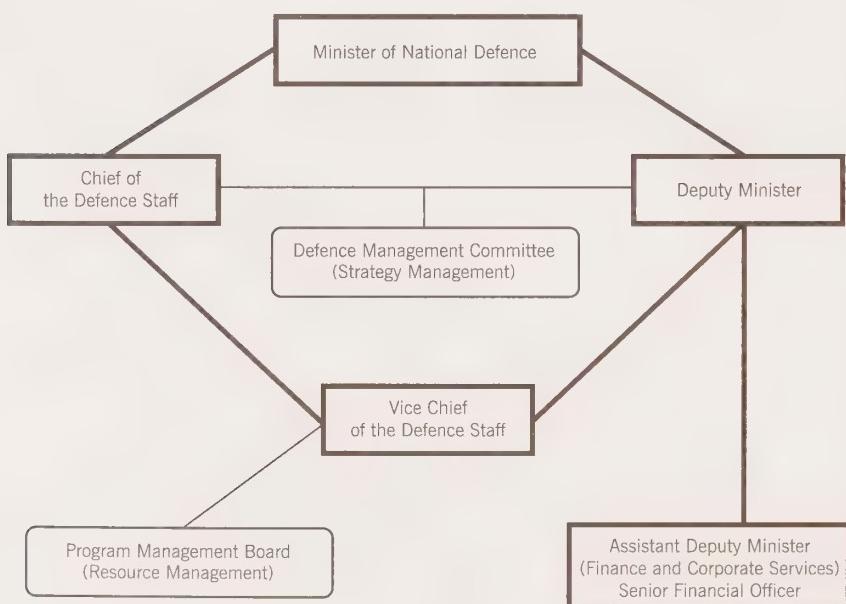
5.60 An organization's governance framework should include systems to establish, implement, and communicate the organization's structure, policies, and guiding principles. This includes clearly establishing roles, responsibilities, and accountabilities in the organization. We expected the Department to have established practices to hold management accountable for setting priorities, identifying and managing risks, planning and budgeting to achieve objectives, communicating these to the organization, and monitoring and reporting results.

National Defence's governance structure is not focused on financial management

5.61 National Defence has a defined governance structure. The Deputy Minister, the Chief of the Defence Staff, and the Vice Chief of the Defence Staff are the senior decision makers regarding the use of resources in the Department, supported in financial management by the Defence Management Committee and the Program Management Board (Exhibit 5.5).

5.62 The Deputy Minister and the Chief of the Defence Staff co-chair the Defence Management Committee (DMC). While not specifically focused on resource management, the DMC's mandate is to provide advice to the co-chairs on policy and other matters related to the strategic management of National Defence, including those that influence resource allocation decisions.

Exhibit 5.5 National Defence has a defined governance structure



5.63 The Vice Chief of the Defence Staff chairs the Program Management Board (PMB), which is the Department's primary resource management body. Membership includes senior managers who provide advice and support for decisions regarding business planning, in-year management resource allocations, and project approvals. PMB provides a forum for cross-departmental discussion of resource matters.

5.64 During our review of the minutes of the Defence Management Committee and the Program Management Board, we found neither focused on strategic resource allocations. Most agenda items that appear before the Defence Management Committee provide situational updates, and the majority of items tabled at the Program Management Board focus on project approvals and the in-year management status. We found no evidence of a formal process to provide senior management with regular reports on the corporate and specific directives identified in the business planning approval letters to ensure that the Department is achieving its objectives and using allocated funds to obtain expected results.

5.65 Recommendation. National Defence should review and revise its senior management committee structure to ensure that there is strategic oversight of financial management and control in the Department.

The Department's response. Agreed. National Defence is currently examining the integration of the various components of the framework by which the Department of National Defence and the Canadian Forces plan and manage the Defence Services Program, from government policy through to business plans. As part of this, National Defence is conducting a comprehensive review of its top-tier governance bodies, to be completed by fall 2009, to improve strategic oversight of financial management and control in the Department and fully reflect the Deputy Minister's accountabilities.

National Defence's governance structure needs to change to conform to Treasury Board policy

5.66 The Treasury Board of Canada's new Policy on Financial Management Governance came into effect 1 April 2009. This policy establishes responsibilities for financial management governance and capabilities and "is designed to ensure strong financial management of public resources, reinforce the principles of probity and prudence, and contribute to better decision-making." It clearly outlines what can be expected of a department's deputy head, Chief Financial Officer (formerly known as the Senior Financial Officer), and other senior managers.

5.67 The new policy states that a department's deputy head has overall stewardship responsibility for the integrity of the department's financial management capabilities. In consultation with the Comptroller General of Canada, the deputy head appoints the Chief Financial Officer and establishes clear responsibilities and performance expectations for the position.

5.68 At the time of our audit, National Defence did not have a Chief Financial Officer position. The Assistant Deputy Minister, Finance and Corporate Services, acted as the Senior Financial Officer, while the Vice Chief of the Defence Staff was the resource manager.

5.69 We found that National Defence was reviewing its governance structure. Its draft governance model indicates that the Deputy Minister, who is the deputy head of the Department of National Defence, is responsible for resource management in the Department. However, it does not identify the new role of Chief Financial Officer and its associated responsibilities and accountabilities. Under the new Treasury Board of Canada policy, the Chief Financial Officer is responsible for all aspects of financial management, program financing, and financial reporting. The Vice Chief of the Defence Staff has traditionally fulfilled some of these responsibilities by making decisions on financial resources and providing key financial information for decision making at the corporate level. National Defence's draft governance model does not address the overlap that exists between the Vice Chief of the Defence Staff's current responsibilities and those set out for the new Chief Financial Officer in the Treasury Board's policy.

5.70 Recommendation. National Defence should include the Chief Financial Officer in its governance framework and further define the roles, responsibilities, and accountabilities of the Deputy Minister, the Vice Chief of the Defence Staff, and the Chief Financial Officer with respect to the management of financial resources.

The Department's response. Agreed. The review referred to in response to recommendation 5.65 will encompass the roles and responsibilities of the Deputy Minister as the Departmental Accounting Officer, the Vice Chief of the Defence Staff, and the Assistant Deputy Minister, Finance and Corporate Services, as Chief Financial Officer to ensure the governance framework fully complies with the Treasury Board Policy on Financial Management Governance that came into effect on 1 April 2009.

Ongoing financial management issues

National Defence's commitment to improve financial management remains unfulfilled

5.71 National Defence has identified financial management as a priority for many years. In 1999, the Department recognized issues and opportunities in its financial management and control framework through conducting a Comptrollership Capacity Check. This formed the basis for the Department's Modern Comptrollership Action Plan (June 2000), which set out priorities for action to foster sound management of resources and effective decision making.

5.72 In 2004, the Department released the report *Strengthening Accountability and Comptrollership in National Defence*. The action plan contained in this report included a “back-to-basics” approach to compliance with authorities; values and ethics to support proper conduct; and an emphasis on performance measurement, reporting, upgrading of financial systems, and modernizing of financial strategies and policies.

5.73 National Defence acknowledged the importance of financial management and set objectives to improve in this regard. However, our audit findings continue to indicate weaknesses in this area.

5.74 Findings of our past audits. Since the early 1990s, we have identified financial management and controls as areas requiring attention at National Defence. Our previous audits found, for example, that corporate-level planning was not adequate to guide resource allocation, information was often not available to decision makers, the Department lacked identified results and performance data, and progress on the development of data warehouses was slow.

5.75 In addition, during our recent annual financial audit work, we found several problems at National Defence related to accountability and controls. These include

- an inability to demonstrate that delegated financial authorities are up-to-date;
- difficulty in producing adequate documentation to support financial information;
- problems meeting timelines for the provision of information;
- a lack of proper system descriptions and failure to reconcile the Department's main financial system with the operational systems that feed it; and

- disconnects between National Defence's financial policies and management practices in related operational areas.

5.76 While the Assistant Deputy Minister, Finance and Corporate Services, manages the Department's financial records and is responsible for following up on the findings of our annual financial audits, many of the issues raised required coordinated attention and action across the organization. We found that there was no briefing to senior management from a corporate perspective. National Defence advised us that these financial audit findings are basically managed at a lower level in the organization and only a small number of Level 1 managers are informed of the issues and impacts.

5.77 With rising expenditures on defence and the many commitments the Department has underway, we expected that by now National Defence would have in place a robust financial framework to plan, manage, monitor, report, and account for its resources.

Conclusion

5.78 National Defence meets the basic elements of financial management and control. The Department does not overspend, it meets its external reporting requirements, and it has a well-defined business planning cycle for its short-term operational requirements.

5.79 National Defence cannot demonstrate that its financial management and controls support the financial management of resources, corporate planning, and decision making, especially for the medium to long term. Financial and operational processes across the Department are not integrated and do not provide a comprehensive view of financial management across the organization.

5.80 National Defence has initiated an integrated risk management framework, but cannot demonstrate that the Department uses this framework nor manages financial risks in a consistent manner. Further, risk information produced for decision makers does not help the Department focus on and respond to key corporate risks, which could impact on its ability to meet its objectives.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objectives

Our audit objectives were to determine whether National Defence could demonstrate that its financial management practices

- support resource management, strategic planning, and decision making; and
- manage financial risk.

Scope and approach

The audit focused on the main financial management operations under the authority of two officials—the Vice Chief of the Defence Staff and the Assistant Deputy Minister, Finance and Corporate Services.

The Vice Chief of the Defence Staff coordinates and directs the activities necessary to ensure that the departmental defence policy and strategic objectives are achieved. On behalf of both the Deputy Minister and the Chief of the Defence Staff, the Vice Chief of the Defence Staff acts as the senior business manager for National Defence, with responsibility for strategic visioning, planning, resource prioritization, performance management, and Force development. As a member or chair of key senior management committees, the Vice Chief of the Defence Staff directs or influences financial management decisions and activities in the Department.

The Assistant Deputy Minister, Finance and Corporate Services, who is the Senior Financial Officer of the Department, provides comptrollership, financial management, and corporate services to support both the Department and the Canadian Forces. Although this position reports directly to the Deputy Minister, the official works closely with the Vice Chief of the Defence Staff and others within National Defence on financial and resource management activities.

The audit included the overall budgeting and planning as they extend to the other assistant deputy ministers and chiefs in the Department, and examined the reporting and accountability processes in place. The audit work focused mainly on the 2007–08 fiscal year, with prior and current year information used to support and complete work as required.

National Defence has identified numerous core systems and applications throughout the Department. As such, it was not possible to include all these systems and applications within the audit scope. However, we reviewed the strategic approach and business plans for information management to understand how activity in this area supports financial management and control in the Department.

The focus of the audit was at the strategic level, looking at financial management and related activities at the corporate level.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that National Defence could provide evidence that its financial management and control systems, processes, and practices report that the Department's resources are used for the purposes for which Parliament voted the funding and are managed by the Department to achieve departmental priorities.	<ul style="list-style-type: none"> • Treasury Board of Canada Policy on Management, Resources and Results Structures, 2005, Section 7.1(II) • Treasury Board of Canada Secretariat, Financial Management Accountability in Departments and Agencies, 1991, The Deputy's Financial Management Accountability, and The Financial Management Accountability Framework
We expected that National Defence could provide evidence that its financial management and control systems, processes, and practices provide management with information that supports decision making.	<ul style="list-style-type: none"> • Treasury Board of Canada Secretariat, Financial Management Accountability in Departments and Agencies, 1991, The Deputy's Financial Management Accountability, and The Financial Management Accountability Framework • Results for Canadians: A Management Framework for the Government of Canada, 2000, Managing for Results, pages 10–12
We expected that National Defence could provide evidence that its financial management and control systems, processes, and practices identify, manage, and control business and related operational risks.	<ul style="list-style-type: none"> • Treasury Board of Canada Secretariat Integrated Risk Management Framework, 2001, Four Elements and Their Expected Results
We expected that National Defence could provide evidence that its financial management and control systems, processes, and practices comply with authorities.	<ul style="list-style-type: none"> • Treasury Board of Canada Secretariat, Financial Management Accountability in Departments and Agencies, 1991, The Financial Management Accountability Framework • Treasury Board of Canada Policy on Financial Management Governance, 2009, Section 5: Policy Requirements (specifically, the Required Roles and Responsibilities of Senior Management)
We expected that National Defence could provide evidence that its financial management and control systems, processes, and practices safeguard the Department's assets.	<ul style="list-style-type: none"> • Treasury Board of Canada Secretariat, Financial Management Accountability in Departments and Agencies, 1991, The Financial Management Accountability Framework • Treasury Board of Canada Policy on Management, Resources and Results Structures, 2005, Section 7.1(II)

Audit work completed

Audit work for this chapter was substantially completed on 28 November 2008.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 5. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
Planning and management	
<p>5.31 National Defence should establish an integrated corporate business plan that links defence strategy to objectives, corporate risks, activities, resources, and expected results. (5.17–5.30)</p>	<p>Agreed. Planning at National Defence requires the recognition of multiple time horizons and an integration of military capabilities with a departmental organizational structure. In this context, it is essential that core planning documents that drive objective setting, resource allocation, and performance measurement are fully aligned. These core documents include a Government of Canada 20-year Canada First Defence Strategy; a Program Activity Architecture; a Treasury Board-mandated Investment Plan, which provides a 5-year plan in a 20-year context; and Level 1 business plans. National Defence will further incorporate an integrated Level 0 Corporate Plan in this framework to complete the document alignment architecture and provide strategic direction and context for the development of Level 1 business plans.</p>
<p>5.43 National Defence should develop more complete, timely, and accurate information for senior management, including relevant indicators and measures related to plans, objectives, and associated risks, and actively engage all areas of the Department in regularly providing the information needed for corporate-wide financial management. (5.32–5.42)</p>	<p>Agreed. National Defence acknowledges that it needs to improve its ability to produce integrated financial and non-financial performance information that is complete, timely, accurate, relevant, and fully supportive of the Department's Management, Resources, and Results Structure. In collaboration with the Treasury Board of Canada Secretariat, the Department is developing a new Program Activity Architecture to better reflect how National Defence manages its resources. This will include a robust performance management framework to ensure management at all levels has the information needed and in a timely manner.</p>

Recommendation	Response
<p>Risk management</p> <p>5.55 National Defence should implement integrated risk management and actively incorporate consistent risk management practices and reporting into financial and resource management activities. (5.44–5.54)</p>	<p>Agreed. It is acknowledged that the introduction of integrated risk management into a department as large and complex as National Defence is a challenging endeavour. While all of the Treasury Board-required elements of an Integrated Risk Management Framework are technically in place, the Department recognizes that more remains to be done to effectively integrate risk considerations into both planning and ongoing management activities. To this end, the Corporate Risk Profile is being revised, risks identified in the 20-year Investment Plan and Level 1 business plans will be mapped to corporate risks, and risk management will be further integrated into the decision-making process for all strategic-level governance bodies.</p>
<p>Governance</p> <p>5.65 National Defence should review and revise its senior management committee structure to ensure that there is strategic oversight of financial management and control in the Department. (5.59–5.64)</p> <p>5.70 National Defence should include the Chief Financial Officer in its governance framework and further define the roles, responsibilities, and accountabilities of the Deputy Minister, Vice Chief of the Defence Staff, and Chief Financial Officer with respect to the management of financial resources. (5.66–5.69)</p>	<p>Agreed. National Defence is currently examining the integration of the various components of the framework by which National Defence and the Canadian Forces plan and manage the Defence Services Program, from government policy through to business plans. As part of this, National Defence is conducting a comprehensive review of its top-tier governance bodies, to be completed by fall 2009, to improve strategic oversight of financial management and control in the Department and fully reflect the Deputy Minister's accountabilities.</p> <p>Agreed. The review referred to in response to recommendation 5.65 will encompass the roles and responsibilities of the Deputy Minister as the Departmental Accounting Officer, the Vice Chief of the Defence Staff, and the Assistant Deputy Minister, Finance and Corporate Services, as Chief Financial Officer to ensure the governance framework fully complies with the Treasury Board Policy on Financial Management Governance that came into effect on 1 April 2009.</p>

Report of the Auditor General of Canada to the House of Commons—Spring 2009

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to the House of Commons

Chapter 6
Selected Contribution Agreements—
Natural Resources Canada



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Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

6

Selected Contribution Agreements—
Natural Resources Canada

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Selected Contribution Agreements— Natural Resources Canada

Main Points

What we examined

Natural Resources Canada (NRCan) seeks to enhance the responsible development and use of Canada's natural resources and the competitiveness of Canada's natural resources products. It devotes a significant portion of its budget to grants and contributions, some of which are administered by its Office of Energy Efficiency. In fiscal year 2007–08, NRCan's voted grants and contributions accounted for over \$211 million, of which \$28 million or 13 percent was in the Office of Energy Efficiency program area.

Between April 2003 and March 2005, NRCan's Office of Energy Efficiency entered into five contribution agreements with three private sector organizations to deliver programs designed to address greenhouse gas emissions in the transportation sector. The total amount disbursed under the five agreements was about \$5.9 million.

At the request of NRCan senior management, the Department's internal auditors carried out audits of the five agreements. The audits identified material breaches of the terms and conditions of the contribution agreements, which NRCan brought to our attention in August 2006.

We examined NRCan's actions in entering into and managing these five contribution agreements and also considered whether controls the Department now has in place would be adequate to prevent recurrences of the matters identified in the Office of Energy Efficiency program area.

Our conclusions relate only to the management practices and actions of public servants. The policies and requirements to which we refer apply only to public servants and not to private sector consultants or organizations. We did not audit the records of private sector consultants or organizations. Consequently, our conclusions cannot and do not pertain to any practices that private sector consultants or organizations followed or to their performance.

Why it's important

The government has many ways to pursue public policy objectives, including transfer payments to individuals, organizations, and other levels of government. Contributions are transfer payments that are subject to performance conditions specified in a contribution agreement with the recipient. The recipient must show that it is meeting the performance conditions in order to be reimbursed for specific costs over the life of the agreement. The government can audit the recipient's compliance with the performance conditions.

The terms and conditions specified in a contribution agreement detail the government's expectations of the recipient of the funds. It is important for government to establish compliance with these terms and conditions in order to ensure that it is achieving the intended results of the agreement. Similarly, an essential control over the expenditure of public money is contained in section 34 of the *Financial Administration Act*, which requires certification that amounts are paid in accordance with the terms and conditions of an agreement.

It is important that government business be conducted openly and fairly, and that conflicts of interest, in fact and in appearance, be avoided.

What we found

- Before signing the five contribution agreements, NRCan knew that a consultant who had provided services to the Department relating to the contribution programs would also be working for the organizations that received NRCan funding under these programs. In our view, this is a conflict of interest that NRCan did not identify.
- Payments totalling about \$3.2 million that NRCan made under the contribution agreement with CEEA Transport were not in accordance with the terms and conditions of the agreement. Similarly, payments to the Canadian Energy Efficiency Alliance and the Canadian Natural Gas Vehicle Alliance were not in accordance with the terms and conditions of their contribution agreements. The Department also did not satisfy its obligation under section 34 of the *Financial Administration Act*, which, in the case of a contribution agreement, requires certification that amounts are paid in accordance with the terms and conditions of the agreement.
- In response to the findings of its internal audits, NRCan has since implemented a number of changes and improvements in its management practices for contribution agreements. However, the practices still do not include adequate independent monitoring to ensure that the management of contribution agreements respects the requirements of the *Financial Administration Act*, the Treasury

Board of Canada Policy on Transfer Payments, and the Department's own policy and practices governing contribution agreements. Nor has the Department developed policies and guidance on conflict of interest in contribution agreements to prevent recurrences.

The Department has responded. The Department agrees with both of our recommendations. Its detailed responses follow each recommendation in the chapter.

Introduction

6.1 The government has many ways to pursue public policy objectives, including legislation and regulation; information and advice; and transfer payments to individuals, organizations, and other levels of government, to carry out activities that support its objectives. Transfer payments to individuals and to organizations are generally made as grants or as contributions.

6.2 Contributions are conditional transfer payments. They are subject to performance conditions specified in a contribution agreement between the department and the recipient. The recipient must continue to show that it is meeting the performance conditions in order to be reimbursed for specific costs over the life of the agreement. The government can audit the recipient's compliance with the agreement's performance conditions.

Selected contribution agreements managed by Natural Resources Canada

6.3 In 2003, the government approved a measure called the Commercial Transportation Energy Efficiency and Fuels Initiative as part of its efforts to reduce greenhouse gas emissions. The Initiative included the National Fleet Challenge. Also in 2003, the government approved the Natural Gas Vehicle Market Transformation Measure, intended to increase the demand for natural gas vehicles, reduce their upfront cost in urban fleet applications, and improve economies of scale for vehicle manufacturers. Natural Resources Canada (NRCan) was authorized to enter into contribution agreements with organizations that would carry out both programs.

6.4 Between April 2003 and March 2005, NRCan's Office of Energy Efficiency signed five contribution agreements with three organizations to carry out the two programs. Three agreements were signed with the Canadian Natural Gas Vehicle Alliance (CNGVA) under the Natural Gas Vehicle Market Transformation Measure for a total of \$2.2 million. An agreement was signed with the Canadian Energy Efficiency Alliance (CEEA) in the amount of \$298,000 and an agreement was signed with CEEA Transport (CEEA-T) worth \$6.9 million, both under the National Fleet Challenge. All amounts were disbursed to the recipients under the CNGVA and CEEA contribution agreements. The actual amount paid by NRCan under the CEEA-T agreement for work performed up to the date of the agreement's early termination on 19 July 2006 was \$3.5 million.

6.5 In August 2005, at the request of NRCan senior management, these five contribution agreements were audited by NRCan's internal auditors. The audits identified material breaches of the terms and conditions of the contribution agreements. In August 2006, NRCan informed the Office of the Auditor General of its concerns regarding these five contribution agreements.

Focus of the audit

6.6 We examined NRCan's management of the five contribution agreements to determine the process by which they were issued and to review the actions NRCan had taken as a result of its internal audit findings. We also considered whether the changes the Department made to its control and management practices in the affected program area as a result of the internal audits would be adequate to prevent a recurrence of similar problems.

6.7 It should be noted that our conclusions about management practices and actions refer only to those of public servants. The policies and requirements to which we refer apply only to public servants and not to private sector consultants or organizations. We did not audit the records of the private sector consultants or organizations. Consequently, our conclusions cannot and do not pertain to any practices that private sector consultants or organizations followed or to their performance.

6.8 More details on the audit objectives, scope, approach, and criteria are in *About the Audit* at the end of this chapter.

Observations and Recommendations

Selecting the recipients of contributions

Natural Resources Canada did not identify a conflict of interest

6.9 We expected that Natural Resources Canada (NRCan) would exercise due diligence in selecting and approving recipients of transfer payments through contribution programs, in accordance with the Treasury Board of Canada Policy on Transfer Payments.

6.10 We found that a consultant provided services to NRCan relating to two contribution programs. That consultant also provided services to organizations that received funding from NRCan under those contribution programs.

6.11 Specifically, in 2003, NRCan entered into contracts with Bronson Consulting Group (Bronson) to develop a proposal for the Natural Gas Vehicle Market Transformation Measure. The Department also entered into contracts with Bronson to develop fleet strategies and delivery infrastructure for the National Fleet Challenge. Bronson retained the services of a consultant, Peter Middleton, to carry out some of this work. NRCan paid at least \$110,000 to Bronson for the consulting services of Mr. Middleton and/or his company (Conseillers Messier Middleton) under these contracts.

6.12 Conseillers Messier Middleton was also retained by the Canadian Natural Gas Vehicle Alliance (CNGVA) to provide services related to the three contribution agreements that it received under the Natural Gas Vehicle Market Transformation Measure. Before it signed these contribution agreements, NRCan knew that Mr. Middleton would be working for CNGVA under the agreements.

6.13 Similarly, Mr. Middleton and/or his company participated in the development of draft funding proposals for the Canadian Energy Efficiency Alliance (CEEA) and CEEA Transport (CEEA-T), which eventually received contribution agreements with NRCan under the National Fleet Challenge. For one of these organizations, CEEA-T, Mr. Middleton signed the \$6.9 million contribution agreement as the organization's President.

6.14 Before it signed the contribution agreement with CEEA-T, NRCan knew that Mr. Middleton had provided services to the Department under the previously mentioned contracts with Bronson for the National Fleet Challenge, and that he would be signing the contribution agreement as CEEA-T's President.

6.15 After the contribution agreement between NRCan and CEEA-T was signed, CEEA-T retained the services of Conseillers Messier Middleton to assist with the implementation of the National Fleet Challenge. The contract with Mr. Middleton's company provided that up to \$712,000 could be paid for professional services.

6.16 In our view, the facts outlined above constitute a conflict of interest. NRCan knew of these circumstances and permitted the conflict of interest to occur by the way that it managed the contracts and contribution agreements. NRCan did not identify any of these circumstances as a conflict of interest.

Compliance with authorities	Natural Resources Canada made payments to recipients that were not in accordance with the five contribution agreements
	<p>6.17 We expected that the Department would follow the government-approved terms and conditions of the contribution programs, the contribution agreements, the requirements of the Treasury Board of Canada Policy on Transfer Payments, and the requirements of the <i>Financial Administration Act</i> in managing and administering the five contribution agreements.</p>
	<p>6.18 In August 2003, the government approved the contribution programs that permitted NRCan to enter into the contribution agreements with CEEA-T, CEEA, and CNGVA. The government's approval included a requirement that NRCan determine that applicants for a contribution agreement possess the management, financial, and technical resources to fulfill the proposed undertaking. Three weeks before signing the CEEA-T contribution agreement, NRCan was advised by Mr. Middleton (CEEA-T's first President) that the organization would have a potential shortfall of \$450,000 because certain expenses were not eligible for reimbursement. When it signed the contribution agreement, NRCan knew that CEEA-T did not have other confirmed sources of funding that could cover the potential shortfall. This calls into question whether CEEA-T had the financial resources to complete the project, as required by the terms and conditions that had been approved by the government. Nevertheless, NRCan signed the contribution agreement with CEEA-T.</p>
	<p>6.19 In August 2005, NRCan senior management became aware that CEEA-T was not complying with some of the terms and conditions of the contribution agreement. In particular, CEEA-T had not made payments to some of its subcontractors before submitting claims to NRCan for payment as required by the contribution agreement. To that date, NRCan had paid \$1.1 million to CEEA-T under the agreement, and there was sufficient evidence available to NRCan to establish that CEEA-T was insolvent. NRCan did not monitor or assess CEEA-T's financial resources and ability to complete the project on an ongoing basis. Despite the evidence available to establish CEEA-T's insolvency, NRCan paid a further \$1.3 million to CEEA-T between September 2005 and March 2006. The Department advised CEEA-T not to incur expenses after 31 March 2006. NRCan officially terminated the contribution agreement on 19 July 2006.</p>
	<p>6.20 The Department believed that CEEA-T's subcontractors deserved payment for the work they had performed. We found that, motivated by its desire to ensure that the subcontractors were treated</p>

fairly, to ensure that work of value was compensated, and to avoid the potential for costly litigation, NRCan devoted a great deal of effort to assessing the extent and value of all the work performed by CEEA-T and its subcontractors over the period of the agreement to the date of termination. Based on that assessment, and after taking into account the payments it had already made to CEEA-T, NRCan issued additional payments to CEEA-T, totalling around \$1.1 million, with the expectation that the money would be used to pay eligible amounts claimed by CEEA-T's subcontractors. In our view, under this approach, there was a risk that the funds would not be used by CEEA-T to pay its subcontractors.

6.21 We reviewed the payment process to determine whether the Department made the payments in accordance with the terms and conditions of the five contribution agreements. Overall, \$3.5 million of the total \$6.9 million contemplated under the CEEA-T agreement was disbursed. We found that approximately \$3.2 million in payments to CEEA-T had not been made in accordance with the terms and conditions of the contribution agreement. Similarly, we found that NRCan made payments to CEEA and CNGVA that were not in accordance with the terms and conditions of their contribution agreements.

6.22 We also found that the Department considered, but did not implement, other available options to resolve payment issues surrounding the CEEA-T contribution agreement. Options considered included the possibility of entering into new contribution agreements, amending the existing contribution agreements, or making payments that would be consistent with the Treasury Board of Canada Policy on Claims and Ex Gratia Payment.

6.23 Under section 34 of the *Financial Administration Act*, the department official with the authority to confirm entitlement for payment must certify that the recipient is eligible for or entitled to the payment. As such, it is an essential control over the expenditure of public money. This certification requirement was not satisfied because the payments discussed above were not made in accordance with the terms and conditions of the contribution agreements.

Departmental controls

Changes made in response to internal audit findings may not prevent a recurrence

6.24 We expected that the departmental controls for managing and monitoring contribution agreements implemented after the internal audits would be adequate to prevent recurrences of the issues identified by the audits.

6.25 We found that when concerns about the contribution agreements were identified in August 2005, NRCan initiated internal audits of the five agreements. These audits highlighted several problems, including material breaches of the terms and conditions of the contribution agreements, and incomplete selection and monitoring processes and practices for contribution agreements used in the program area at the time. The Department recognized these problems and, in response to internal audit recommendations, implemented a number of new practices and processes that were designed to improve the management controls with respect to contribution agreements, including

- forming a Transfer Payment Review Committee composed of senior officials mandated to provide corporate direction in the selection, design, implementation, and performance monitoring of transfer payment programs;
- improving the tracking systems for contribution agreements, which flag important milestones to the Director General responsible for the program area;
- developing standard templates for drafting agreements; and
- increasing training for program officials in the area of transfer payments.

6.26 We note, however, that the Office of Energy Efficiency program area remains responsible for selecting which recipients of contribution agreements will be audited and it still does most of the monitoring.

6.27 We also found that NRCan's current Departmental Policy on Transfer Payments and its Values and Ethics Framework documents are silent on conflict of interest situations for private sector consultants and for contribution agreements. They are also not supplemented by guidance for staff. We found that the new practices and processes still do not require an assessment of whether a conflict of interest exists when determining a recipient's eligibility for contribution agreements.

6.28 Recommendation. Natural Resources Canada should develop policies and guidance to identify and address conflict of interest situations noted by our audit.

The Department's response. Agreed. Natural Resources Canada (NRCan) respects and adheres to the Values and Ethics Code for the Public Service and the Treasury Board of Canada Policy on Transfer Payments. It acknowledges that, in this isolated case, certain departmental officials failed to identify the potential for conflicting interests with possible advantages for private sector recipients.

When this error was brought to the attention of senior management, numerous corrective actions were taken, including the four action areas identified in paragraph 6.25 of this report. NRCan will continue to develop new guidance and procedures to assist staff in preventing conflict of interest situations involving contribution agreements. Some new measures currently under development will be introduced in 2009.

6.29 Recommendation. Natural Resources Canada (NRCan) should ensure that the management of contribution agreements, and compliance with them by both parties to the agreement, is monitored independently from outside the program area.

The Department's response. Agreed. NRCan is committed to full compliance and improved management regarding all of its contribution agreements. As noted in this report, upon the advice of its internal auditors in 2006, NRCan promptly implemented a series of measures to improve the management and controls surrounding its contribution agreements. Another important measure was the creation of the Centre of Expertise, outside of the program areas, to provide advice and guidance on contribution agreements. In addition, senior management initiated a full review of the five agreements subsequently examined by the Office of the Auditor General (OAG) to ensure and confirm that every dollar spent was for work of value. This review, completed in 2007, confirmed that work of value was completed and that no money was lost. The Department further recognizes and supports the OAG recommendation that the remaining step to improving the management, monitoring, and reporting of contribution agreements is the requirement for independent monitoring from outside the program area. NRCan is developing and will implement a regime for independent monitoring of its contribution agreements.

Conclusion

6.30 A consultant who provided services to Natural Resources Canada (NRCan) relating to particular contribution programs also provided services to organizations after they received NRCan funding under these programs. In our view, this represents a conflict of interest. NRCan knew, before signing the five contribution agreements, that the consultant would be working for these organizations. NRCan did not identify this as a conflict of interest.

6.31 In the contribution agreements with the Canadian Energy Efficiency Alliance, the Canadian Natural Gas Vehicle Alliance,

and CEEA Transport, payments were made by NRCan that were not in accordance with the terms and conditions of the contribution agreements and therefore did not satisfy the requirements of section 34 of the *Financial Administration Act*.

6.32 Changes that NRCan has since implemented in its management practices for contribution agreements in the Office of Energy Efficiency program area do not include adequate independent monitoring from outside the program area to ensure that contribution agreements comply with the *Financial Administration Act*, the Treasury Board of Canada Policy on Transfer Payments, as well as NRCan's Departmental Policy on Transfer Payments. The Department has not developed policies and guidance on conflict of interest for private sector consultants and for contribution agreements to prevent recurrences.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objectives

The audit focused on the way Natural Resources Canada (NRCan) managed five contribution agreements. The specific objectives were

- to determine whether the Department had proper policies and procedures to avoid conflict of interest situations in issuing contribution agreements;
- to determine whether the Department identified and addressed a conflict of interest situation while setting up these five selected contribution agreements;
- to determine whether the Department had the authority to make payments under the contribution agreements using an approach that was based on an assessment of the value of work provided by recipients and their subcontractors; and
- to determine whether the Department's new management and monitoring practices for contribution agreements are adequate to prevent recurrences of the issues identified in the Office of Energy Efficiency program area.

Scope and approach

Our work consisted of obtaining documentation, conducting interviews, and analyzing data relating to NRCan's management of five contribution agreements. Our audit took place between June and November 2008.

We did not re-audit the selected contribution agreements, conduct audits of recipient organizations of these five contribution agreements, or increase the scope of the audit to include other contribution agreements within NRCan. We did not assess the deliverables under these contribution agreements.

The audit did not assess the performance or the qualifications of private sector consultants or organizations. No comments in the report should be construed as criticism of any private sector consultant or organization.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
Selecting the recipients of contributions	
<p>We expected that Natural Resources Canada exercised due diligence in selecting and approving recipients of transfer payments and in managing and administering programs.</p>	<ul style="list-style-type: none"> • Treasury Board of Canada Policy on Transfer Payments, 2000, section 7.1.1 • Treasury Board of Canada Contracting Policy, 2003, section 16.11.5 • Values and Ethics Code for the Public Service, 2003, Chapter 1: Statement of Public Service Values and Ethics • Natural Resources Canada Departmental Policy on Transfer Payments
<p>We expected that Natural Resources Canada has policies and procedures in place to ensure that transfer payments are made to organizations that meet the eligibility and entitlement criteria.</p>	<ul style="list-style-type: none"> • Treasury Board of Canada Policy on Transfer Payments, 2000, section 7.2.1
Compliance with authorities	
<p>We expected that Natural Resources Canada has effective financial and program controls that are designed and carried out within its transfer payment programs.</p>	<ul style="list-style-type: none"> • Treasury Board of Canada Policy on Transfer Payments, 2000, section 7.1.1 • Terms and conditions of the contribution agreements between Natural Resources Canada and the recipients of the contributions • Terms of the Contribution Program approved by the government • <i>The Financial Administration Act</i>, section 16.4
<p>We expected that Natural Resources Canada disbursed funds approved under the contribution agreements in accordance with the <i>Financial Administration Act</i> and the contribution agreements.</p>	<ul style="list-style-type: none"> • Treasury Board of Canada Policy on Transfer Payments, 2000, section 7.5.1 (v) and (vi) • Contribution agreements, section 5 • <i>The Financial Administration Act</i>, section 34
Departmental controls	
<p>We expected that Natural Resources Canada's new management and monitoring practices in the Office of Energy Efficiency program area for contribution agreements are adequate to prevent recurrences of the issues identified in this program.</p>	<ul style="list-style-type: none"> • Treasury Board of Canada Policy on Transfer Payments, 2000, sections 7.1, 7.2, 7.5, 7.11, 8.3, 8.5, and 9.1 • Natural Resources Canada Departmental Policy on Transfer Payments, section 6

Audit work completed

Audit work for this chapter was substantially completed on 5 November 2008.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 6. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
Departmental controls <p>6.28 Natural Resources Canada should develop policies and guidance to identify and address conflict of interest situations noted by our audit. (6.24–6.27)</p>	<p>Agreed. Natural Resources Canada (NRCan) respects and adheres to the Values and Ethics Code for the Public Service and the Treasury Board of Canada Policy on Transfer Payments. It acknowledges that, in this isolated case, certain departmental officials failed to identify the potential for conflicting interests with possible advantages for private sector recipients. When this error was brought to the attention of senior management, numerous corrective actions were taken, including the four action areas identified in paragraph 6.25 of this report. NRCan will continue to develop new guidance and procedures to assist staff in preventing conflict of interest situations involving contribution agreements. Some new measures currently under development will be introduced in 2009.</p>
<p>6.29 Natural Resources Canada (NRCan) should ensure that the management of contribution agreements, and compliance with them by both parties to the agreement, is monitored independently from outside the program area. (6.24–6.27)</p>	<p>Agreed. NRCan is committed to full compliance and improved management regarding all of its contribution agreements. As noted in this report, upon the advice of its internal auditors in 2006, NRCan promptly implemented a series of measures to improve the management and controls surrounding its contribution agreements. Another important measure was the creation of the Centre of Expertise, outside of the program areas, to provide advice and guidance on contribution agreements. In addition, senior management initiated a full review of the five agreements subsequently examined by the Office of the Auditor General (OAG) to ensure and confirm that every dollar spent was for work of value. This review, completed in 2007, confirmed that work of value was completed and that no money was lost. The Department further recognizes and supports the OAG recommendation that the remaining step to improving the management, monitoring, and reporting of contribution agreements is the requirement for independent monitoring from outside the program area. NRCan is developing and will implement a regime for independent monitoring of its contribution agreements.</p>

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2009



SPRING

Report of the
**Auditor General
of Canada**
to the House of Commons

Chapter 7
Special Examinations of Crown Corporations—2008



Office of the Auditor General of Canada



2009



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Office of the Auditor General of Canada

The Spring 2009 Report of the Auditor General of Canada comprises a Message from the Auditor General of Canada and seven chapters. The main table of contents for the Report is found at the end of this publication.

The Report is available on our website at www.oag-bvg.gc.ca.

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Chapter

7

Special Examinations of Crown
Corporations—2008

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Special Examinations of Crown Corporations—2008

Special Examinations of Crown Corporations

7.1 This chapter presents the main points of special examination reports of Crown corporations that were issued to their boards of directors between 1 March 2008 and 31 December 2008, and that have subsequently been made public. We began publishing the main points of special examinations in 2008 and will continue to present this information annually in our Report.

Importance of Crown corporations

7.2 Crown corporations are distinct legal entities whose names, mandates, powers, and objectives are set out in either the constituent legislation for the parent Crown corporation or the articles of incorporation under the *Canada Business Corporations Act*. There are two types of Crown corporations: those that are wholly owned directly by the Government of Canada (parent Crown corporations) and those that are wholly owned by other Crown corporations (subsidiaries).

7.3 Crown corporations have more autonomy than most other government entities, in part because they have commercial objectives as well as public policy objectives. They account for a significant portion of government activity and operate in many sectors of the Canadian economy, including transportation, energy, agriculture and fisheries, financial services, culture, and government services.

7.4 As of 31 December 2008, there were 46 parent Crown corporations and three subsidiaries that are directed to report as parent Crown corporations. These Crown corporations employed over 92,000 people. Four corporations employed over 84 percent of the total—Canada Post Corporation, the Canadian Broadcasting Corporation, Atomic Energy of Canada Limited, and VIA Rail Canada Inc. The vast majority of Crown corporations, however, had fewer than 3,000 employees.

7.5 Crown corporations manage more than \$185 billion in assets. The corporations fund their operations in a variety of ways. Some corporations are required by their enabling legislation to be financially self-sustaining and thus receive no parliamentary appropriations. Some are funded mainly through parliamentary appropriations. Others receive

federal funding but also generate revenue. In the 2007–08 fiscal year, 25 of the corporations received just over \$5 billion in appropriations. Six of these accounted for 81 percent of the appropriations—Canada Mortgage and Housing Corporation, the Canadian Broadcasting Corporation, the Canadian Air Transport Security Authority, VIA Rail Canada Inc., Canada Council for the Arts, and Atomic Energy of Canada Limited.

7.6 New Crown corporations are created periodically. In 2008, there were three new Crown corporations added—the Canadian Museum for Human Rights, the Canada Employment Insurance Financing Board, and Public Private Partnerships (PPP) Canada Inc. PPP Canada Inc. is a subsidiary of the Canada Development Investment Corporation but will report as a parent Crown corporation.

7.7 A board of directors oversees the management of each corporation and holds management responsible for the corporation's performance. The board of a parent Crown corporation is, in turn, accountable to Parliament through the responsible minister.

Role of the Office of the Auditor General of Canada in the audits of Crown corporations

7.8 Under Part X of the *Financial Administration Act* (FAA), the Auditor General is appointed to conduct periodic special examinations of Crown corporations, either on her own or jointly with a private sector audit firm, unless she waives the appointment. The FAA also requires that the Auditor General conduct independent audits of the annual financial statements of each Crown corporation.

7.9 Almost all Crown corporations are required to have a special examination, which covers the parent Crown corporation as well as all of its wholly owned subsidiaries. Subsidiaries that are directed to report as parent Crown corporations are also subject to a special examination. Two exceptions to the requirement are the Bank of Canada and the Canada Pension Plan Investment Board, which have unique governance structures and do not fall under FAA requirements for a special examination to be conducted by the Auditor General. However, the Canada Pension Plan Investment Board is required under its own act to undergo a special examination by an auditor chosen by the board at least once every six years.

7.10 A special examination is an important mechanism of accountability for Crown corporations. The objective of a special examination is to provide an independent opinion on whether there is reasonable assurance that a Crown corporation has systems and practices in place to ensure that

- assets are safeguarded and controlled;

- financial, human, and physical resources are managed economically and efficiently; and
- operations are carried out effectively.

7.11 Any major weakness in the key corporate systems and practices that could prevent it from achieving these objectives is reported as a **significant deficiency**. When planning special examinations, we conduct a risk analysis to identify the systems and practices that we consider essential to providing the corporation with this assurance. We also establish criteria that we use to examine the corporation's systems and practices. The criteria are based on our experience with performance auditing and our knowledge of the subject matter, and are selected in consultation with the corporation.

7.12 The opinion we present in the special examination report can take one of three forms. One conclusion is that there was reasonable assurance that there were no significant deficiencies in the systems and practices maintained by the corporation to achieve the objectives above. The second form concludes there are one or more significant deficiencies. In addition, in rare situations, we may find there is no reasonable assurance that a corporation's systems and practices achieve the objectives.

Recent changes to special examination reporting requirements

7.13 Until recently, Crown corporations were required to undergo special examinations at least once every five years. Over the past few years, we have been advocating an increase in the number of years between special examinations. In early 2009, the *Budget Implementation Act* changed the reporting cycle in the *Financial Administration Act* (FAA) to at least once every 10 years, a change that we fully support. However, special examinations could potentially be carried out more frequently if required by the Governor in Council (the Cabinet acting in a legal capacity), the appropriate minister, the board of directors of the corporation, or the Auditor General.

7.14 Under the current provisions of the FAA, special examinations are reported to the board of directors of a Crown corporation. Further, the Auditor General may bring information from the special examination to the attention of the appropriate minister after consulting the board of directors, and may also bring such information to Parliament's attention by including it in the corporation's annual report. A second change in the Act requires that the board of directors submit special examination reports to the appropriate minister and the President of the Treasury Board within 30 days after it receives them.

Significant deficiency—A major weakness in a Crown corporation's key systems and practices that could prevent it from having reasonable assurance that its assets were safeguarded and controlled, its resources were managed efficiently and economically, or its operations were carried out effectively.

Special examination results for 2008

7.15 In March 2004, the government announced its intention to introduce a requirement that all special examination reports be made public. While there was no formal requirement to make reports public between March 2004 and the beginning of 2009, Crown corporations have been making their reports available to the public by posting them on their websites. A third change in the Act requires the board of directors to make the reports available to the public within 60 days after it receives them.

7.16 Reports were issued for the following eight Crown corporations between 1 March 2008 and 31 December 2008, and have been subsequently made public:

- Canada Council for the Arts
- Defence Construction (1951) Limited
- The Federal Bridge Corporation Limited
- Great Lakes Pilotage Authority
- International Development Research Centre
- Pacific Pilotage Authority
- Parc Downsview Park Inc.
- VIA Rail Canada Inc.

7.17 Of these eight special examination reports, five identified no significant deficiencies. Three identified one or more significant deficiencies:

- The Federal Bridge Corporation Limited had significant deficiencies related to securing funds, as well as oversight by the board.
- Great Lakes Pilotage Authority had one significant deficiency related to its operations.
- VIA Rail Canada Inc. had one significant deficiency in its ability to meet its strategic challenges.

For each of these three corporations, the Office of the Auditor General of Canada has chosen to bring the results to the attention of the appropriate minister.

7.18 In addition to reporting on significant deficiencies, our special examinations highlight systems and practices that contribute to success and provide information and recommendations to boards of directors about other opportunities for improvement. For the eight Crown corporations, our recommendations focused primarily on

corporate governance, strategic planning, risk management, and performance measurement. Because of the small number of special examination reports that were issued in this period, it is difficult to identify overall trends.

7.19 The main points of the special examination reports follow. The full text of the reports can be found on the corporations' websites.

Main Points of Special Examination Reports—2008

Canada Council for the Arts

What we examined

The Canada Council for the Arts was created as a federal Crown corporation in 1957. Its mandate is to foster and promote the study and enjoyment of the arts, and the production of the works of art. The Canada Council offers a broad range of grants and services to professional Canadian artists and arts organizations in music, theatre, writing and publishing, visual arts, dance, media arts, and interdisciplinary and performance art.

In 2006–07, the Canada Council processed approximately 16,000 grant applications and awarded a total of \$152 million to some 6,600 individual artists and arts organizations. The Canada Council has about 200 employees.

We examined the Canada Council's systems and practices in the areas of grant management, governance, strategic planning, performance measurement and reporting, and human resources management. Our objective was to determine whether those systems and practices provide the Canada Council with reasonable assurance that its assets are safeguarded and controlled, that its resources are managed economically and efficiently, and that its operations are carried out effectively.

Why it's important

The creation, production, and dissemination of works of art help to develop a society that is creative, innovative, and open to the world. By financially supporting Canadian artists and arts organizations, the Canada Council contributes to this development and brings together citizens of diverse backgrounds and circumstances. The Canada Council aims to support artistic excellence: therefore, it must ensure, through its management systems and practices, that it awards financial support to the most deserving artists and arts organizations, and that it does so in a fair, consistent, and objective manner.

What we found

The systems and practices we examined had no significant deficiencies. In fact, the Canada Council's systems and practices have contributed to its success in several areas.

- For grant management, the Canada Council has implemented a series of policies and procedures that as a whole ensure that grant applications are processed in a fair, consistent, and objective manner. Generally speaking, the Canada Council has properly applied these policies and procedures.

- For governance, the responsibilities of Board members are clearly defined, and the Canada Council has an established policy framework and practices to ensure its own independence, as well as to manage conflicts of interest.
- For planning, the Canada Council has adopted new strategic directions and developed action plans to implement its strategic directions.

However, we noted some areas that would benefit from improvement.

- The Canada Council has paid \$1.2 million to a limited number of projects that it considered to be of an exceptional nature. However, it has not submitted these projects to a peer assessment process. We did not find any policy supporting this practice. Furthermore, the Canada Council does not specify in its public documents which grants were awarded through this process. This puts the reputation for objectivity that the Canada Council for the Arts currently enjoys at risk.
- The Canada Council currently offers over 140 grant programs to artists and arts organizations. This number may increase as the arts continue to diversify. The range of programs needs to be examined to determine if it appropriately supports the Canada Council's new strategic directions. Such an examination could improve the Canada Council's efficiency.

The Canada Council for the Arts has responded. The Canada Council for the Arts agrees with the recommendations. Its responses follow the recommendations throughout the report.

Defence Construction (1951) Limited

What we examined

Defence Construction (1951) Limited, commonly known as Defence Construction Canada (DCC, or the Corporation) is a Crown corporation that provides the Department of National Defence—its only client—with contracting, contract management, and other property-related services that support defence construction projects. It reports to Parliament through the Minister of Public Works and Government Services.

The Corporation had revenues of about \$56 million in the 2007–08 fiscal year, a growth of almost 130 percent since our last special examination in 2003. In the same period, its staff has more than doubled to over 600 employees.

We examined DCC's systems and practices for corporate governance, risk management, strategic planning, performance measurement and reporting, service delivery, human resources management, information technology management, and environmental management. Our objective was to determine whether those systems and practices provide the Corporation with reasonable assurance that its assets are safeguarded and controlled, its resources are managed economically and efficiently, and its operations are carried out effectively.

We paid particular attention to the management of security risks in service delivery, given our Office's recent audit of industrial security in government contracting (October 2007 Report of the Auditor General of Canada, Chapter 1, Safeguarding Government Information and Assets in Contracting). That audit had reported that thousands of defence construction contracts were awarded without verification of the contractors' security clearance. The House of Commons Standing Committee on Public Accounts met to discuss this matter as we were completing this special examination.

Why it's important

Defence Construction Canada's mission is to deliver infrastructure and environmental projects and services required for the defence of Canada. It serves as an intermediary between National Defence and the contractors and suppliers hired to complete the projects.

What we found

We found no significant deficiencies in the systems and practices we examined. We found sound systems and practices in a number of areas we examined. For example:

- Effective processes and procedures are in place to monitor performance against set timelines, budgets, and quality standards in delivering services to National Defence, which is critical to the Corporation's success.
- DCC has taken steps to minimize work-related accidents and provide a safe working environment. It also has a well-defined environmental management framework and ensures that the potential environmental impacts of construction projects are taken into account and that, when appropriate, mitigating measures are put in place.

We also noted some areas for improvement:

- Chapter 1 of our October 2007 Report to the House of Commons raised serious concerns about contractor security clearance procedures between DCC and National Defence. Defence construction contracts had been awarded to contractors who had not been cleared to the appropriate security levels. During our special examination, the Corporation launched a comprehensive Security Policy Initiative and developed a detailed action plan aimed at addressing both the management of industrial security with National Defence and broader security issues within DCC. The action plan included addressing security requirements with National Defence through an updated Memorandum of Understanding, clarifying procedures for assessing security requirements prior to awarding contracts, developing a DCC security policy, appointing regional and site security officers and developing and implementing security training. The majority of these initiatives had been completed by the end of our examination. Over time, DCC will need to closely monitor the effectiveness of the corrective actions it has taken and ensure that risks are being assessed, monitored, and mitigated to an acceptable level of tolerance. This will require sustained attention from management and the Board of Directors.
- The significant growth that DCC has undergone since our last special examination, including the doubling of its workforce, has created the need for stronger and more formal systems and practices in a number of areas. Opportunities for improvement include expanding the corporate planning horizon beyond one year and providing better linkages to National Defence's capital

infrastructure expenditure plans. This would also allow for a more strategic approach to human resources management. So far, DCC has been able to react successfully to client needs. However, to compete for skilled workers in a highly competitive labour market, a complete picture of its current workforce and future requirements is needed. DCC would also benefit from a more structured approach to planning and managing information technology initiatives.

The Corporation has responded. DCC agrees with all the recommendations. Its responses follow the recommendations throughout the report.

The Federal Bridge Corporation Limited

What we examined

Federal Bridge Corporation Limited (FBCL or the Corporation) is a Crown corporation responsible for three important bridges and other infrastructure in the Montréal area. It is also responsible for three international bridges in Ontario. These assets are operated by its three subsidiary corporations: Jacques Cartier and Champlain Bridges Incorporated, in Montréal; Seaway International Bridge Corporation, Ltd. in Cornwall; and St. Mary's River Bridge Company in Sault Ste. Marie, and by two US bridge operators.

Federal Bridge Corporation Limited is responsible for ensuring that the bridges and structures in its care and control are safe and efficient for users. FBCL and its subsidiaries employ more than 150 people. The Corporation reports to Parliament through the Minister of Transport, Infrastructure and Communities.

We examined whether Federal Bridge Corporation Limited and its subsidiaries have systems and practices in place to provide the Corporation with reasonable assurance that assets are safeguarded and controlled, resources are managed economically and efficiently, and operations are carried out effectively. Our detailed examination work in both the parent corporation and the subsidiaries focused on the areas of corporate governance, bridge management, corporate risk management, strategic planning, performance measurement and reporting, consultations with First Nations, contracting, and environmental management.

Why it's important

Federal Bridge Corporation Limited and its subsidiaries own and manage some of the most important and strategic fixed-link crossings in Canada. Each year, about 134 million vehicles and about \$67 billion worth of merchandise cross its bridges, making them among the busiest in North America. These structures play a vital role in connecting Canada's transportation and economic network with the world.

Recent tragic events in North America involving aging bridge structures have focused public attention on bridge safety. Federal Bridge Corporation Limited and its subsidiaries face the significant challenges of strains on its own aging structures, the introduction of new safety and security requirements for bridges and international crossings, and the impact of declining commercial traffic volumes on bridge revenues.

What we found

We identified two significant deficiencies in the systems and practices we examined.

- **Unresolved funding requirements and a threat to financial sustainability.** We found a significant deficiency in the Corporation's ability to maintain and repair existing bridges and facilities, given the status of current funding. Significant capital investments are needed at several bridges in the Montréal area and at international bridges. FBCL estimates costs to maintain and repair existing bridges and facilities at \$615 million over the next five years. FBCL estimates that it will lack about \$371 million in revenues to cover these costs and other operating expenses over the next five years. Because FBCL and its subsidiaries do not have borrowing authority, federal funding will be needed for the repairs. If the repair programs do not proceed in a timely manner, the ability to safeguard the bridges and maintain current levels of service could be compromised and could increase the safety risk. At the same time, the Corporation foresees a threat to its financial sustainability as a result of decreased truck traffic and toll revenues at the international bridges. FBCL needs to work with the government to resolve these funding requirements and find additional revenue sources in order to remain financially self-sustaining in the long term.
- **Insufficient oversight by the parent Board.** We found a significant deficiency in the area of corporate governance, in that the parent corporation's Board has not exercised its oversight role with respect to the affairs of FBCL and its subsidiaries. The Board of FBCL has not obtained from management of both the parent and the subsidiaries all the information it needs on a timely and regular basis to carry out effective oversight. The small size of the parent corporation's Board—only four members—makes it difficult to have the appropriate mix of skills and experience needed to properly oversee the wide-ranging affairs of FBCL and its subsidiaries. In addition, FBCL was without a permanent chief executive officer for more than a year.

In other systems and practices we examined, we found no significant deficiencies but noted another area that needs improvement.

- While key elements of a bridge management system are in place, and inspection practices are industry-accepted, Federal Bridge Corporation Limited needs to develop a corporate-wide long-term maintenance plan for dealing proactively with the aging of bridges and other facilities across the Corporation. It also needs to take

a broader approach to risk management that considers all significant risks to all the structures operated by its subsidiaries and bridge operators.

Federal Bridge Corporation Limited and its Board have responded.
The Corporation and the Board agree with our recommendations.
Their responses follow each recommendation in the report.

Great Lakes Pilotage Authority

What we examined

The Great Lakes Pilotage Authority (Authority) is a federal Crown corporation created in 1972 under the *Pilotage Act*. It reports to Parliament through the Minister of Transport, Infrastructure and Communities. The Authority's mandate under the Act is to establish and operate an efficient pilotage service within the Great Lakes region in the interests of navigation safety—that is, it employs licensed marine pilots who take over from ship captains and officers at their request or where their ships are subject to compulsory pilotage. The Act also empowers the Authority to designate compulsory pilotage areas, determine ships or classes of ships that are subject to compulsory pilotage, set tariffs to be paid to the Authority, and define the conditions for issuing licences and pilotage certificates. The Authority has a role as both a regulator and a service provider.

The *Great Lakes Pilotage Regulations*, adopted when the Authority was created in 1972, stipulate that ships of more than 300 gross registered tons navigating on the Great Lakes are subject to compulsory pilotage. However, the Authority exempts Canadian ships from compulsory pilotage if they navigate only on the Great Lakes or inland waters of Canada. It bases such exemptions on annual declarations by shipping companies, stating that their officers meet the requirements set out in the *Regulations*.

We examined how the Authority designates compulsory pilotage areas, how it determines which ships are subject to compulsory pilotage, how it sets the pilotage tariffs to ensure its financial self-sufficiency, how it manages human resources, and how it undertakes strategic planning and governance.

Why it's important

Pilotage contributes to public safety by minimizing accidents and environmental damage. More than 60 percent of ships navigating on the Great Lakes are Canadian vessels exempted from compulsory pilotage. The Great Lakes Pilotage Authority therefore needs to have assurance that Canadian masters and deck watch officers are competent to navigate safely without assistance from the Authority's pilots.

The tariffs levied by the Authority for pilotage services need to be fair and reasonable and ensure the Authority's financial self-sufficiency, which is required under the *Pilotage Act*. A significant deficiency in one or more of the systems and practices that we examined could threaten the Authority's ability to carry out its mandate.

What we found We identified a significant deficiency in the current system of exempting Canadian ships from compulsory pilotage.

- The system of exemption has been in place since 1972 and was originally intended as a temporary measure. Now, 35 years later and despite numerous studies and recommendations calling for action to make the requirements for exemption more stringent, the system continues. The latest report that assessed risks to navigation safety, completed in 2002 and approved by the Board, recommended that the current exemption system be replaced by a pilotage certification process. In our view, the Authority does not have an effective mechanism to provide it with reasonable assurance that Canadian masters and deck watch officers have the competencies and qualifications needed to ensure the safe passage of their ships in compulsory pilotage areas.

We did not identify significant deficiencies in the practices and systems examined in other sectors. As we explain below, we identified good practices as well as opportunities for improvement.

- The Authority's systems and practices provide it with reasonable assurance that it offers an efficient pilotage service meeting user needs. The Authority meets regularly with various stakeholders from the shipping industry to discuss issues that affect them. For example, over time the Authority has been successful in reducing the number and length of delays in providing pilotage service.
- The Authority sets its tariffs on the basis of expected traffic volumes but does not make sufficient allowance for imprecision in its forecasts of traffic volumes. Any significant decline in traffic volume could have a major impact on its revenues and its financial self-sufficiency. For example, between 2002 and 2007 the number of pilot assignments forecast varied from 6 percent under the actual number of assignments to 16 percent over the actual number of assignments. These variations were the primary factor in the Authority's operating losses of more than \$6.5 million during that period. The other major factor was the reduction of revenue in the International District caused by the rise of the Canadian dollar.

International Development Research Centre

What we examined

The International Development Research Centre (IDRC) was established in 1970, one of the first organizations in the world devoted to supporting research activities that developing countries consider the most relevant to their prosperity, security, and equity. The Centre allocates its resources to specific development problems and forges links among the disciplines that can contribute to solutions. IDRC bases its approach to development on specific principles: staying closely linked to recipient communities and keeping operations flexible enough to respond to needs as they are identified.

On 31 March 2007, IDRC was supporting 524 active research projects and providing support to 714 institutions. It had 462 employees. Of these, 169, including 111 locally engaged staff, were working in the six regional offices located in Cairo, Dakar, Montevideo, Nairobi, New Delhi, and Singapore. The rest were working at headquarters in Ottawa.

Our special examination of IDRC looked at the systems and practices we considered essential to providing the Corporation with reasonable assurance that its assets are safeguarded and controlled, its resources are managed economically and efficiently, and its operations are carried out effectively. The areas we examined were strategic planning, risk management, performance management, management of research projects and partnerships, human resources management, research results and knowledge sharing, information technology and corporate governance.

Why it's important

Developing countries have a vast need for research. While many organizations provide development assistance, IDRC is among a smaller number supporting local development research. Given the rapidly changing global environment and IDRC's limited resources, its choices are critical: it must continually assess why, where, and how to intervene to have the greatest impact.

What we found

We found no significant deficiencies in the systems and practices we examined. In fact, IDRC's systems and practices in several areas have contributed to its success.

- IDRC has sound systems and practices to manage the funding of research projects, its core function. It uses an appropriate process to select and approve the research projects it funds, and it monitors projects to ensure that they are completed to a suitable standard of quality. The financial aspects of projects are adequately

controlled. Since our last special examination in 2003, IDRC has also reduced its backlog of project completion reports. In a number of cases, it has been active in linking project recipients with other potential partners and donors to ensure that projects are sustainable after its own role has ended.

- The Centre's management of human resources demonstrates that it values its people as its strongest asset. Its reputation as a learning organization continues to attract and retain highly qualified staff who have developed effective processes for sharing knowledge and for capturing and disseminating research results.

We found certain other areas that need attention or that provide opportunities for improvement.

- Ten of the 21 seats on the Centre's Board of Governors have traditionally been reserved for foreign members so that Canadian members are in the majority, as the *International Development Research Centre Act* requires. We noted that because of government delays in filling Board vacancies, Canadian governors have not been in the majority since March 2007, which means the Board's composition is not in compliance with the *IDRC Act*. We also note that the terms of Board members are not well staggered—more than 44 percent of the current governors' terms will expire in 2011. The government's attention to these matters is needed.
- We note that IDRC has opportunities to improve its external reporting by demonstrating more clearly in its annual report which of its activities have contributed to achieving both short-term and long-term objectives and by providing multi-year performance information. It also needs to complete its work on the integrated risk management framework and its components.

IDRC has responded. IDRC agrees with all the recommendations. Its responses follow the recommendations throughout the report.

Pacific Pilotage Authority

What we examined

The Pacific Pilotage Authority (the Authority) was created as a Crown corporation in 1972 under the *Pilotage Act*. It provides licensed marine pilots and pilot boats to assist ship masters and officers in transiting ports, harbours, and waterways in all Canadian waters in and around the province of British Columbia. The Authority establishes in what areas pilotage is compulsory, what ships are subject to it, and in what circumstances exemptions from pilotage are granted. The Authority also sets out the conditions for obtaining pilotage licences and certificates. The fees paid to it for pilotage services are required to be set at levels that permit it to fund its operations and to be financially self-sustaining.

We examined how the Authority designates compulsory pilotage areas; how it determines which ships are subject to compulsory pilotage; how it sets the pilotage tariffs to ensure its financial self-sufficiency; how it manages human resources; and how it undertakes strategic planning and governance.

Why it's important

Pilotage contributes to public safety by minimizing accidents and risks to the environment. It is important that the Pacific Pilotage Authority ensure that ships enter, leave, or transit within the Pacific region pilotage areas as safely as possible.

Under the *Pilotage Act*, the Authority has a monopoly on pilotage services in the Pacific region. It has a responsibility to deliver those services economically and efficiently. It is important that the rates it charges for pilotage services are fair and reasonable while providing the revenue needed to fund its operations.

What we found

In our opinion, the systems and practices we examined had no significant deficiencies. As noted below, we identified good practices as well as some areas where the Pacific Pilotage Authority would benefit from improving its practices.

- The Authority uses practices designed to establish pilotage charges that are fair and reasonable while ensuring financial self-sufficiency. It consults regularly with stakeholders to provide information on the cost of supplying its services. In the last seven years, stakeholders have raised no objections to proposed tariff increases.
- The Authority's systems and practices for pilot boat construction, acquisition, and replacement planning are designed to meet Transport Canada's safety regulations and ensure that vessels are being constructed to address the Authority's operational requirements.

- The Canadian Transportation Authority recommended in 1999 that pilotage authorities develop and implement a fair and equitable system for assessing the competency of pilots and the quality of their services. The Authority has drafted a guideline that outlines the expected training, experience, and testing expected of apprentices and restricted pilots; it expects the guideline to be implemented over the next three years. While progress is being made, we found that the Authority still does not formally assess pilots' performance on an annual basis, although we recommended this practice in our 2003 special examination report.
- The Authority has a broad range of key performance indicators that are reported to the Board of Directors quarterly and are shared with the Chamber of Shipping of British Columbia, which shares the information with the industry. However, as noted in our 2003 special examination, the Authority does not publish planned and actual performance on a range of indicators in its annual report. This would provide better information to government and Parliament on how the Authority is performing.

The Authority has responded. The Pacific Pilotage Authority agrees with our recommendations. Their responses follow the recommendations in the report.

Parc Downsview Park Inc.

What we examined

Parc Downsview Park Inc. (PDP, or the Corporation) is a Crown corporation responsible for the development and management of land that was formerly the Canadian Forces Base in Toronto. Downsview Park covers 231.5 hectares in the centre of the Greater Toronto Area. Along with public open space and recreational use, the Corporation's plans for the site include retail, commercial, and residential uses. PDP is expected to operate on a financially self-sustaining basis.

We examined whether Parc Downsview Park Inc. has systems and practices in place to provide the Corporation with reasonable assurance that its assets are safeguarded and controlled, its resources are managed economically and efficiently, and its operations are carried out effectively. Our examination focused on the areas of corporate governance, risk management, strategic planning, project management, environmental management, and external relations and communications.

Why it's important

The construction of Downsview Park is a major project in the city of Toronto that has been attracting much public attention since 1994, when the government announced the closure of the Canadian Forces Base and plans for a unique urban recreational green space on the site for the enjoyment of future generations. The location of the Park in the centre of a major city and the number of stakeholders involved and interested in the project pose particular challenges for the Corporation. It must balance their diverse interests with its plans for developing the site in accordance with its principles of social, environmental, and economic sustainability.

What we found

We found no significant deficiencies in the systems and practices we examined. We found sound practices in a number of areas:

- PDP has sound planning practices in place to provide clear direction for the development of the Park and the financial management of the project. The Park's Sustainable Community Development Plan, finalized in 2007, reflects a good understanding of the future use of the lands and existing properties. The Corporation also places a lot of emphasis on ensuring the financial sustainability of its activities. It has developed a financial model and produced financial projections over a 25-year period that provide for developing the Park on a "pay as you go" basis, thus minimizing debt levels and keeping as much land as possible for public space.

- The Board of Directors follows good governance practices and is actively involved in setting the direction for the development of the Park. In addition, PDP has strategies in place that support the delivery of a wide range of communication and public affairs events. It also has a good understanding of its stakeholders and works closely with them toward realizing its mandate.

We also noted some areas for improvement:

- There are significant risks and uncertainties associated with the development of an urban project like Downsview Park over such a long period of time. Changes in economic conditions, inflation and borrowing rates, construction costs and real estate values, for example, could have a significant impact on the financial sustainability of the project. Effective oversight and monitoring of risks and changing conditions by the Board will be critical to the success of the Corporation. While PDP's corporate plan identifies these and other risks, the Corporation needs to adopt a more formal approach to risk management. A corporate risk profile identifying which systems and practices are in place to manage each significant risk would help ensure that risks and challenges to the completion of the Downsview Park project are systematically identified, monitored, and kept within acceptable levels.
- PDP lacks a management plan for its buildings and infrastructure, much of which it will have to upgrade to increase its leasing activities and thereby generate revenue to replace aging infrastructure. To date, it has taken a "fix as needed" approach to property management. A management plan would help it align infrastructure investments with existing activities and future needs.
- PDP has a number of detailed reports on the environmental condition of the site that, to some extent, give it an understanding of its environmental risks. However, this will not be sufficient when major development of the site begins. In our view, PDP will need to obtain additional information on the site's condition to ensure that all areas have been cleaned up appropriately for their planned uses. PDP also needs to strengthen and formalize its approach to environmental management and formalize the structure guiding its activities. Systems and practices to improve include developing a consolidated inventory of its significant environmental risks, and clarifying roles, responsibilities, and accountabilities for environmental management.

The Corporation has responded. PDP agrees with all of the recommendations. Its responses follow the recommendations throughout the report.

VIA Rail Canada Inc.

What we examined

VIA Rail Canada Inc. (the Corporation) is a federal Crown corporation that reports to Parliament through the Minister of Transport, Infrastructure and Communities. The Corporation's goal is to manage and provide safe and effective passenger rail service to persons travelling in Canada. The Corporation's railway network, which is owned mainly by private sector carriers, connects 450 communities from Halifax to Vancouver. The Corporation has about 3,000 employees.

We examined the Corporation's systems and practices to determine whether they provide the Corporation with reasonable assurance that its assets are safeguarded and controlled, its resources are managed economically and efficiently, and its operations are carried out effectively.

Our examination covered, among other things, management of rail assets, security, strategic planning, information technology, and environmental management. We conducted our examination from June 2007 to February 2008.

Why it's important

The Corporation provides rail services from coast to coast, to nearly four million passengers a year. As a Crown corporation, VIA Rail must not only achieve its business objectives, but it must also act in the public interest. It provides services to isolated communities where, in some cases, there are very few means of transportation. Environmental concerns and significant increases in gas prices make transportation by train a viable alternative to the automobile.

In September 2007, the government approved an approximately \$690 million medium-term investment plan to ensure the Corporation's long-term viability and to improve its financial results. The return on these investments is primarily based on the Corporation's ability to increase its ridership and revenues.

What we found

During our special examination, we found one significant deficiency in the systems and practices of VIA Rail. We were unable to obtain reasonable assurance that the Corporation would be able to meet the strategic challenges that it is currently facing. These challenges could have an impact on the fulfillment of the Corporation's corporate plan for the 2007–11 period.

- The Corporation does not own most of the rails that it uses on a daily basis. Any extra usage of these must be negotiated with the owners of the rail networks. The Corporation's corporate plan is

premised on successful completion of the current negotiations with the principal provider of access to the railway track network, within VIA Rail's prescribed envelope of funding. A new service agreement is thus critical to the Corporation's ability to meet the objectives established in its corporate plan. VIA Rail is seeking major improvements to its current agreement, which will expire in December 2008. These improvements would allow greater access to the tracks and enhancement of the rail network. At the time of the drafting of this special examination, the outcome of negotiations was uncertain, and the Corporation had not established contingency plans to be put in place if negotiations should fail.

- The 2007–2011 corporate plan is furthermore based upon revenue and ridership growth assumptions that will pose a significant challenge for the Corporation. In the past, the Corporation has had difficulty in meeting these types of objectives. The 2002–2006 corporate plan anticipated revenues that were \$230 million higher than those actually realized; the corporate plan anticipated significant ridership growth, while growth increased only by about 5 percent; and the corporate plan anticipated better on-time performance, while performance remained under a global rate of 80 percent.

This deficiency could have a significant impact on the future of the Corporation and its public funding requirements.

In other areas, we did not find any significant deficiencies in the systems and practices we examined. Since our previous special examination, which was conducted in 2003, we found that the Corporation had improved its practices in a certain number of sectors.

- Among other things, the Corporation undertook a complete transformation of its human resources function. The long-term planning of these resources is now better defined and more strategic. After it decided in 2006 to make client service the focus of corporate management, the Corporation developed marketing and “customer advocacy” plans based on sound knowledge of the passenger transportation sector, the tourism and business market, and the needs of its customers.

We identified a number of other areas requiring improvement:

- The absence of a risk and threat assessment system in the information technology sector could jeopardize information technology and operations management security. Furthermore, the Corporation has not prepared detailed plans to show how it

will implement its strategic plan for information technology. This plan defines the new role of information technology in the Corporation. The Corporation also lacks the necessary performance indicators to monitor its initiatives.

- Regarding environmental management, much of the Corporation's effort is focused on activities that pose a risk to the environment. However, an assessment of the comparative size of these environmental risks would enable the Corporation to prioritize its efforts.
- Regarding security, the Corporation should identify key positions where an employee could jeopardize the security of facilities. The Corporation should then establish an appropriate assessment procedure.

The Corporation has responded. VIA Rail Canada Inc. acknowledges the constructive approach taken by the Office of the Auditor General (OAG) in this special examination report and supports its conclusions.

We are pleased to note the improvements cited since the previous report by the OAG in 2003. Also, we take note of those areas where further improvements can be made and are taking action to implement these suggestions.

We are in agreement with the Office of the Auditor General regarding the risk to VIA's investment plan inherent in the corporation's negotiations to improve access to the freight infrastructure for increased passenger train frequencies.

We will move quickly to address these concerns. At the time the present report was published, VIA Rail Canada Inc. had already evaluated the risks and identified measures for attenuation. Working with the Board of Directors, VIA developed an alternative plan and incorporated this plan into its 2009–2013 draft corporate plan in case the negotiations were less than satisfactory. The plan is currently under discussion with representatives of Transport Canada.

About the Chapter

Objective

The objective of this chapter was to bring to the attention of Parliament results of the Office of the Auditor General's special examination reports that were issued between 1 March 2008 and 31 December 2008, and that have subsequently been made public by the Crown corporations.

Scope and approach

The chapter includes the main points of eight special examinations where the Auditor General was the examiner. There were no special examinations carried out during this period where the Auditor General was the joint examiner.

The approach to this chapter consisted of presenting information that already existed. Therefore, this chapter did not require separate criteria. Instead, the approach used was to provide information about what a special examination is and to present the main points of the eight special examinations.

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Report of the Auditor General of Canada to the House of Commons—Spring 2009

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